Arkansas Code of 1987 Annotated



2013 SUPPLEMENT VOLUME 17A

Place in pocket of bound volume

Prepared by the Editorial Staff of the Publisher
Under the Direction and Supervision of the
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5050720

ISBN 978–0–327–10031–7 (Code set)
ISBN 978–1–4224–6366–6 (Volume 17A)

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(Pub.40604)

TITLE 17

PROFESSIONS, OCCUPATIONS, AND BUSINESSES

(CHAPTERS 29-79 IN VOLUME 17B; CHAPTERS 80-107 IN VOLUME 17C)

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SUBTITLE 1. PROFESSIONS GENERALLY

CHAPTER 1

GENERAL PROVISIONS

SECTION.

17-1-106. Temporary licensure, certification, or permitting of spouses of active duty service members.

17-1-103. Registration, certification, and licensing for criminal offenders.

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Analysis

Construction.
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Construction.

There was substantial evidence to support the finding that the prior felony conviction should not be waived to allow the applicant to offer counseling, because the Arkansas Board of Examiners in Counseling found that the applicant's testimony that there would be no future aberrations in his behavior was not credible; this section did not confer a right upon a rehabilitated offender to a particular trade or license. Counseling, 2013 Ark. App. 222, — S.W.3d — (2013).

Attorney Discipline.

Circuit court's order to dismiss the attorney's conviction and to seal the record of the criminal proceeding was not binding on the Arkansas Supreme Court for purposes of the disciplinary proceeding against the attorney because the court could not be bound by an expungement order made pursuant to a legislative enactment when engaged in its constitutional mandate to regulate and discipline attorneys at law. Ligon v. Davis, 2012 Ark. 440, — S.W.3d —, 2012 Ark. LEXIS 470 (Nov. 29, 2012).

17-1-106. Temporary licensure, certification, or permitting of spouses of active duty service members.

(a) A state board or commission that issues licenses, certificates, or permits required to enable the holder to lawfully engage in a profession, trade, or employment in this state may allow the spouse of an active duty military service member stationed in this state to secure employment with a temporary license, certificate, or permit while completing the application process for full licensure or certification or permitting if the applicant is the holder in good standing of a substantially equivalent license, certificate, or permit issued by another state.

(b) A state board or commission may expedite the process and procedures for full licensure, certification, or permitting for spouses of active duty military service members stationed in this state.

(c) All state boards and commissions may promulgate rules to carry out the provisions of subsections (a) and (b) of this section.

History. Acts 2013, No. 8, § 1.

SUBTITLE 2. NONMEDICAL PROFESSIONS

CHAPTER 11

ABSTRACTERS

Subchapter 4 — Arkansas Abstracters' Board

17-11-403. Duties and powers.

A.C.R.C. Notes. Acts 2012, No. 47, § 3, provided: "PROFESSIONAL FEES. The appropriation made available in the Professional Fees Line Item of this Act shall be made available to the board for the purpose of contracting an independent or private investigator to perform any investigative task as needed or may be required by law. Abstracter Board members may not act as investigators nor do investigative work required by the board."

CHAPTER 12

ACCOUNTANTS

SUBCHAPTER.

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Subchapter 1 — General Provisions

SECTION.

17-12-103. Definitions.
17-12-104. Penalty.
17-12-106. Unlawful acts.

17-12-103. Definitions.

(a) As used in this chapter:

(1) "AICPA" means the American Institute of Certified Public Accountants, or its successor;

(2) "Attest" means providing the following financial statement services:

(A) An audit or other engagement to be performed in accordance with the AICPA Statements on Auditing Standards;

(B) A review of a financial statement to be performed in accordance with the AICPA Statements on Standards for Accounting and Review Services;

(C) An examination of prospective financial information to be performed in accordance with the AICPA Statements on Standards for Attestation Engagements; and

(D) An engagement to be performed in accordance with PCAOB standards;

(3) "Beneficial owner" means an individual who is the grantor and sole trustee of a revocable trust in which the individual reserves the unrestricted right to revoke the trust;

(4) "Board" means the Arkansas State Board of Public Accountancy created by § 17-12-201;

(5) "Certificate" means a certificate as "certified public accountant" issued under § 17-12-301 or a corresponding certificate as "certified public accountant" issued after examination under the laws of any other state;

(6) "Compilation" means providing a service to be performed in accordance with AICPA Statements on Standards for Accounting and Review Services and presenting in the form of financial statements information that is the representation of management or owners without undertaking to express any assurance on the financial statements;

(7) "Conviction" means all instances in a criminal case in which a defendant has been found guilty or pleads guilty or nolo contendere regardless of whether:

(A) Sentencing or imposition of sentencing has been deferred or suspended; or

(B) The adjudication of guilt or the sentence is withheld by the court;

(8) "Firm" means a partnership, corporation, limited liability company, sole proprietorship, or other entity required to be registered with the board under § 17-12-401 et seq.;

(9) "Home office" means the location specified by the client as the address to which a service under § 17-12-311 is directed;

(10) "License" means a certificate issued under § 17-12-301 or a registration under § 17-12-312 or § 17-12-401 et seq. or, in each case, a certificate or permit issued or a registration under corresponding provisions of prior law;

(11) "Licensee" means the holder of a license as defined in this section;

(12) "Member" means either:

(A) The person in whose name membership interests are registered in the records of a limited liability company; or

(B) The beneficial owner of membership interests of a revocable living trust when the membership interests are registered in the records of the limited liability company in the name of the revocable living trust;

(13) "NASBA" means the National Association of State Boards of Accountancy, or its successor;

(14) "PCAOB" means the Public Company Accounting Oversight Board, or its successor;

(15) "Practice of public accounting" means the performance of attest services as defined in this section or the performance of professional services;

(16)(A)(i) "Principal place of business" means the primary location from which professional services are performed.

(ii) A person or firm may have only one (1) principal place of business at any one (1) time.

(B) An individual who performs professional services at multiple locations may designate the location that most often serves as the individual's home base of operations as a principal place of business;

(17) "Professional services" means services arising out of or related to the specialized knowledge or skills performed by certified public accountants or public accountants;

(18) "Shareholder" means either:

(A) The person in whose name shares are registered in the records of a corporation; or

(B) The beneficial owner of shares of a revocable living trust when the shares are registered in the records of the corporation in the name of the revocable living trust; and

(19) "State" means any state, territory, or insular possession of the United States or the District of Columbia.

(b) The statements on standards specified in subdivision (a)(2) of this section shall be:

(1) Adopted by reference by rule of the board; and

(2) Those developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants.

History. Acts 1975, No. 160, § 22; A.S.A. 1947, § 71-632; Acts 1997, No. 306, § 4; 1999, No. 180, § 1; 2005, No. 54, § 1; 2009, No. 93, § 1; 2013, No. 90, § 1.

Amendments. The 2013 amendment substituted "and/or" for "or" in (a)(6); deleted "the provisions of" preceding "§ 17-12-401" in (a)(8); inserted present (a)(9) and (a)(16) and redesignated the remaining subdivisions accordingly; deleted "while using the title or designation certified public accountant, public accountant, CPA, PA, accountant, or auditor" at the end of present (a)(15); and substituted "when" for "where" in (a)(18)(B).

17-12-104. Penalty.

(a)(1) A person who violates any provision of § 17-12-106 is guilty of a misdemeanor.

(2) A person convicted of violating any provision of § 17-12-106 is subject to:

(A) A fine of not more than one thousand dollars ($1,000);

(B) A judgment in favor of the Arkansas State Board of Public Accountancy for investigative costs; or

(C) Imprisonment for not more than one (1) year for each violation.

(3) Each violation of § 17-12-106 constitutes a separate offense.

(b) When the board has reason to believe that a person is subject to punishment under this section, the board may certify the facts to the Attorney General or other appropriate enforcement officer, who may cause appropriate proceedings to be brought.

History. Acts 1975, No. 160, § 19; A.S.A. 1947, § 71-629; Acts 2005, No. 54, § 2; 2013, No. 90, § 2.

Amendments. The 2013 amendment rewrote the section.

17-12-106. Unlawful acts.

(a)(1) No person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that he or she is a certified public accountant, unless he or she holds a current license as a certified public accountant under § 17-12-301 et seq. and all of his or her offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403.

(2) However, a foreign accountant who has received a certificate under the provisions of § 17-12-308(c) may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received his or her certificate, license, or degree.

(b) No firm shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants unless the firm is currently registered under § 17-12-401(b)(1) and all offices of the firm in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403.

(c) No person shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that he or she is a public accountant, unless:

(1) He or she is currently licensed as a public accountant and all of the person's offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403; or

(2) He or she is currently licensed as a certified public accountant under § 17-12-301 et seq. and all of the person's offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403.

(d) No firm shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of public accountants unless the firm is currently registered under § 17-12-401 or § 17-12-402 and all offices of the firm in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403.

(e)(1) No person or firm shall assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", "accredited accountant", "accounting practitioner", or any other title or designation likely to be confused with "certified public accountant" or "public accountant", or

any of the abbreviations, "CA", "LA", "RA", "AA", "AP", or similar abbreviations likely to be confused with "CPA" or "PA".

(2) Anyone currently licensed under this chapter and whose offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403 may hold himself or herself out to the public as an "accountant" or "auditor".

(3) A foreign accountant who receives a certificate under § 17-12-308(c) and all of whose offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403 may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received his or her certificate, license, or degree.

(4)(A) A person or firm shall not use a professional or firm name or designation that is misleading in reference to the legal form of the firm, the ownership of the firm, or the firm's owners, partners, officers, members, managers, or shareholders.

(B) However, a firm may use the name of one (1) or more past partners, officers, members, managers, or shareholders in its firm name.

(5)(A)(i) A common brand name or initials used by a firm in its name is not misleading if the firm is a network firm.

(ii) For purposes of this subsection, "network firm" means an association of entities that includes one (1) or more firms that:

(a) Cooperate to enhance the firms' ability to provide professional services; and

(b) Share one (1) or more of the following:

(1) Common control as defined by generally accepted accounting principles in the United States through ownership, management, or other means;

(2) Profits or costs, excluding costs of operating the association, developing audit methodologies, manuals, and training courses, or other costs that are immaterial to the firm;

(3) A common business strategy, established by the association, that involves ongoing collaboration among the firms and whereby the firms are responsible for implementing the strategy and are held accountable for their performance under it;

(4) Significant part of professional resources; and

(5) Common quality control policies and procedures that the firms are required to implement and are monitored by the association.

(B) A network firm may consist of a subset of entities within an association only if that subset of entities cooperates and shares one (1) or more of the characteristics in subdivision (5)(A)(ii) of this section.

(C) A firm shall comply with the applicable standards on independence if it offers or renders services that require independence.

(f)(1) A person who is not a current licensee may not offer to render or render any attest service as defined in § 17-12-103.

(2) The restriction in subdivision (f)(1) of this section does not prohibit any act of a public official or public employee in the perfor-

mance of that person's duties as such or prohibit the performance by any person of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports in violation of this chapter.

(g) Unless he or she is a current licensee and all of his or her offices in this state for the practice of public accounting are currently maintained and registered under § 17-12-403, no person shall sign or affix his or her name or any trade or assumed name used by him or her in his or her profession or business with any wording indicating that he or she is an accountant or auditor or with any wording indicating that he or she has expert knowledge in accounting or auditing to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

(1) Financial information; or

(2) Facts respecting compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations.

(h) Unless the firm is currently registered as required by § 17-12-401 et seq. and all of its offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403, no person shall sign or affix a firm name with any wording indicating that it is a partnership, corporation, or limited liability company composed of accountants or auditors or persons having expert knowledge in accounting or auditing to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

(1) Financial information; or

(2) Facts respecting compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations.

(i)(1) No person not currently licensed pursuant to § 17-12-301 et seq., and no firm not currently registered pursuant to § 17-12-401 et seq., shall hold himself or herself or itself out to the public as an "accountant" or "auditor" by use of either or both of such words on any sign, card, electronic transmission, or letterhead or in any advertisement or directory without indicating thereon or therein that the person or firm does not hold such a license.

(2) This subsection shall not prohibit any officer, employee, partner, or principal of any organization from describing himself or herself by the position, title, or office he or she holds in such an organization, nor shall this subsection prohibit any act of a public official or public employee in the performance of his or her duties as such.

(j) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership, corporation, or limited liability company if there is, in fact, no bona fide partnership, corporation, or limited liability company currently registered under

§ 17-12-401 or § 17-12-402. A sole proprietor, corporation, or partnership lawfully using the title or designation in conjunction with such names or designations on July 9, 1975, may continue to do so if he or she or it otherwise complies with the provisions of this chapter.

(k)(1)(A) A licensee shall not for a commission recommend or refer to a client a product or service, or for a commission recommend or refer a product or service to be supplied by a client, or receive a commission when the licensee or the licensee's firm also performs for that client:

(i) An audit or review of a financial statement;

(ii) A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence;

(iii) An examination of prospective financial information; or

(iv) An engagement to be performed in accordance with PCAOB standards.

(B) This prohibition applies during the period in which the licensee is engaged to perform any of the services listed in subdivision (k)(1)(A) of this section and the period covered by any historical financial statements involved in such listed services.

(2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to a person or entity to whom the licensee recommends or refers a product for service to which the commission relates.

(3) A licensee who accepts a referral fee for recommending or referring any service of a licensee to a person or entity or who pays a referral fee to obtain a client shall disclose the acceptance or payment to the client.

(l)(1) A licensee shall not:

(A) Perform for a contingent fee any professional services for or receive such a fee from a client for whom the licensee or the licensee's firm performs:

(i) An audit or review of a financial statement;

(ii) A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence;

(iii) An examination of prospective financial information; or

(iv) An engagement to be performed in accordance with PCAOB standards; or

(B) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for a client.

(2) The prohibition in subdivision (l)(1) of this section applies during the period in which the licensee is engaged to perform any of the services listed in subdivision (l)(1) of this section and the period covered by any historical financial statements involved in any such listed services.

(3)(A) Except as stated in subdivision (l)(3)(B) of this section, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained or in which the amount of the fee is otherwise dependent upon the finding or result of the service.

(B) Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

(C) A licensee's fees may vary depending, for example, on the complexity of services rendered.

(m) A firm that is not registered under § 17-12-401 and does not have an office in this state to provide professional services in this state does not violate this section if the firm complies with § 17-12-401(b)(2) or § 17-12-401(b)(3).

(n) For purposes of this section:

(1) "Licensee" includes an individual using practice privileges under § 17-12-311 on an equal basis; and

(2) A reference to a firm registered under § 17-12-401 et seq. includes a firm exempt from registration and practicing under § 17-12-401(b)(2) — (b)(3).

History. Acts 1975, No. 160, § 16; A.S.A. 1947, § 71-626; Acts 1991, No. 434, § 1; 1997, No. 242, § 1; 1999, No. 180, § 2; 2005, No. 54, § 3; 2009, No. 93, §§ 2-6; 2013, No. 90, § 3.

Amendments. The 2013 amendment added (e)(4) and (e)(5).

Subchapter 2 — Arkansas State Board of Public Accountancy

SECTION.

17-12-203. Duties and powers.

17-12-203. Duties and powers.

(a) The Arkansas State Board of Public Accountancy may adopt, and amend from time to time, regulations for the orderly conduct of its affairs and for the administration of this chapter.

(b)(1) The board shall prepare periodically and make available in media or a medium deemed appropriate by the board a register which shall contain:

(A) The names of all practitioners currently licensed to practice under this chapter;

(B) The names of the members of the board; and

(C) Any other matters as may be deemed proper by the board.

(2) The board may employ personnel and arrange for assistance as it may require for the performance of its duties.

(c)(1) The board may promulgate and amend rules of professional conduct appropriate to establish and maintain a high standard of integrity and dignity in the profession of public accountancy.

(2) At least three (3) months prior to the promulgation of a rule or amendment to its rules of professional conduct, the board shall mail copies of the proposed rule or amendment to each licensee with a notice advising him or her of the proposed effective date of the rule or amendment and requesting that he or she submit his or her comments thereon at least fifteen (15) days prior to its effective date.

(3) Comments shall be advisory only.

(4) Failure to mail the rule, amendment, or notice to all licensees shall not affect the validity of the rule or amendment.

(d) The board may issue any further regulations, including, but not limited to, rules of professional conduct pertaining to licensees practicing public accounting which it deems consistent with or required by the public welfare. Among other things, the board may prescribe regulations for licensees:

(1) Governing their style, name, and title;

(2) Governing their affiliation with any other organization; and

(3) Establishing reasonable standards with respect to professional liability insurance and capital requirements.

(e) The Arkansas State Board of Public Accountancy may:

(1) Adopt rules, not inconsistent with this subchapter, as necessary and proper to carry out the purposes and intentions of this subchapter;

(2)(A) Issue subpoenas to compel the attendance of witnesses and the production of documents.

(B) In case of refusal to obey a subpoena issued to any person, the Pulaski County Circuit Court, upon application by the Arkansas State Board of Public Accountancy, may issue an order requiring the person to appear before the Arkansas State Board of Public Accountancy to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question.

(C) Failure to obey the order of the court may be punished by the court as a contempt of court;

(3) Administer oaths;

(4) Take testimony and receive evidence; and

(5) Cooperate with the following:

(A) Public Company Accounting Oversight Board; and

(B) The appropriate state, federal, or foreign regulatory authorities having jurisdiction over the professional conduct in question.

(f)(1) The Arkansas State Board of Public Accountancy and its agents are immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities.

(2) The state shall hold the Arkansas State Board of Public Accountancy, its members, and its agents harmless from all costs, damages, and attorney's fees arising from claims and suits against them with respect to matters to which the immunity applies.

History. Acts 1975, No. 160, § 2; 1979, No. 432, § 1; A.S.A. 1947, § 71-612; Acts 1997, No. 242, § 3; 1999, No. 180, § 10; 2005, No. 54, § 5; 2013, No. 90, § 4.

Amendments. The 2013 amendment added (e) and (f).

Subchapter 3 — Initial Licensure

SECTION.
17-12-304. Examination — Times — Resource assistance.

17-12-304. Examination — Times — Resource assistance.

(a) The examination required by § 17-12-301(a)(2) shall be held by the Arkansas State Board of Public Accountancy and shall take place as often as the board shall determine to be desirable. However, the examination required by § 17-12-301(a)(2) shall be held not less frequently than one (1) time each year.

(b) The board may use any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service from the American Institute of Certified Public Accountants as it deems appropriate to assist it in performing its duties under this section.

History. Acts 1975, No. 160, § 3; 1979, No. 432, § 2; A.S.A. 1947, § 71-613; Acts 1989, No. 696, § 3; 2005, No. 54, § 8; 2013, No. 90, § 5.

Amendments. The 2013 amendment rewrote (b).

Subchapter 5 — License Renewal

SECTION.
17-12-504. Renewals and renewal fees.
17-12-507. Quality review of each practice unit.

17-12-504. Renewals and renewal fees.

(a)(1) Individual certified public accountants and public accountants shall pay an annual fee in an amount to be determined by Arkansas State Board of Public Accountancy rule.

(2) Unless otherwise provided by board rule, all licenses shall expire on December 31 of each year and may be renewed annually for a period of one (1) year by current licensees in good standing upon payment of the annual renewal fee.

(b)(1) A firm registered with the board shall pay an annual registration fee in an amount to be determined by board rule.

(2) Unless otherwise provided by board rule, all firm registrations shall expire on December 31 of each year and may be renewed annually for a period of one (1) year by registrants in good standing upon payment of the annual renewal fee.

(c) The board may establish a reduced renewal fee for any licensee who has attained a specified age and has met all other qualifications determined by the board.

(d)(1) A licensee may choose not to renew a license by notifying the board in writing prior to the expiration date of the license.

(2) The licensee shall surrender the license to the board immediately upon its expiration or otherwise comply with board rules concerning the disposition of the license.

(e) A licensee who complies with the requirements of subsection (d) of this section may apply to renew or reinstate his or her license or to receive a new license as provided in this section.

(f)(1) Beginning the first day of the first month after expiration, each licensee shall pay a monthly penalty for the late renewal of a license or registration in an amount determined by the board.

(2) If the license or registration is not renewed by the first day of the fourth month after expiration, the license or registration shall lapse.

(g)(1) Upon application received within three (3) years following the expiration of a license, the board may reinstate a lapsed license.

(2) A license may be reinstated if the applicant:

(A) Pays a reinstatement fee determined by the board; and

(B) Complies with continuing professional education and any other requirements applicable to:

(i) The renewal of the license at the date of its expiration; and

(ii) The reinstatement of the license at the date of the application for reinstatement.

(h)(1) Any license or registration that is not reinstated within three (3) years following expiration shall be void and shall not be subject to renewal or reinstatement.

(2) The holder of a void license or registration may apply for a new license or registration under § 17-12-301 et seq. or § 17-12-401 et seq.

(3) The board may require the applicant to comply with educational or other requirements deemed appropriate by the board, including successful completion of the examination identified in § 17-12-304 in order to obtain a new license.

(i) [Repealed.]

(j) Any licensee who fails to timely renew his or her license to practice shall not perform attest services as defined in § 17-12-103(a)(2) until he or she has obtained a license to practice under this subsection.

History. Acts 1975, No. 160, § 11; 1979, No. 432, § 5; A.S.A. 1947, § 71-621; Acts 1997, No. 242, § 17; 1999, No. 180, § 34; 2005, No. 54, § 14; 2013, No. 90, § 6.

Amendments. The 2013 amendment repealed (i).

17-12-507. Quality review of each practice unit.

(a) The Arkansas State Board of Public Accountancy may by rule require as a condition for the renewal of a license a quality review of each practice unit maintained in this state.

(b)(1) The board may charge the accountant or firm reviewed a fee for each:

(A) Quality review of each practice unit; and

(B) Follow-up action to a quality review that is not in conformity with applicable professional standards.

(2) The amount of the fee shall be established by board rule.

(c)(1) The quality review shall consist of either a uniform or random annual submission by each licensee of the following kinds of reports issued by that licensee during the twelve-month period immediately preceding the date of submission, if reports were issued during the period:

(A) A compilation report;

(B) A review report;

(C) An agreed-upon procedures report;

(D) An audit report;

(E) An audit report under a federal grant program or other government program; and

(F) An examination of prospective financial information.

(2) If none of the above reports were issued during the twelve (12) months immediately preceding the date of submission, a licensee is required to submit reports issued since the date of its last quality review survey submission.

(d) All persons acting on behalf of the board in a quality review program under this section shall be considered officers or employees of the State of Arkansas for purposes of:

(1) Immunity from civil liability pursuant to § 19-10-301 et seq.; and

(2) Payment of actual damages on behalf of state officers or employees pursuant to § 21-9-201 et seq.

(e) All financial statements, working papers, or other documents obtained from applicants for quality review shall be confidential and shall not be subject to public inspection except pursuant to an order of a court of competent jurisdiction. However, the documents may be introduced as evidence in any relevant proceedings before the board.

(f) For purposes of this section, a "practice unit" shall be deemed to be any firm registered with the board under § 17-12-401 et seq., and any licensee not employed by or associated with any firm registered with the board under § 17-12-401 et seq. but who has issued one (1) or more compilation reports.

(g)(1) Notwithstanding any provision to the contrary in this chapter, a certified public accountant, public accountant, or firm of certified public accountants or public accountants currently licensed by another state or foreign country shall not be required to obtain a license under this chapter for the sole purpose of conducting peer review as defined by board rule of a licensee in this state and may use the applicable title "certified public accountant" or "public accountant" or abbreviation "CPA" or "PA" solely in conjunction with the peer review activities.

(2) Any certified public accountant, public accountant, or firm of certified public accountants or public accountants, whether licensed in

this state or in another jurisdiction, shall meet standards adopted by the board to accomplish the goals of this chapter in order to qualify to perform peer review of licensees under this chapter.

History. Acts 1987, No. 824, §§ 1-3; 1999, No. 180, § 37; 2005, No. 54, § 16; 2013, No. 90, § 7.

Amendments. The 2013 amendment rewrote (c).

Subchapter 6 — Revocation and Suspension

SECTION.
17-12-602. Sanctions.

17-12-602. Sanctions.

(a) If a licensee or holder of a practice privilege under § 17-12-311 is found to have committed an action or omission identified in § 17-12-601, the Arkansas State Board of Public Accountancy may impose any one (1) or more of the following sanctions:

(1) Suspension, revocation, or denial of his or her license or practice privilege or the renewal thereof;

(2) A penalty not to exceed ten thousand dollars ($10,000) for each violation as well as investigation costs incurred by the board;

(3) Completion of appropriate education programs or courses;

(4) Preissuance review of audits, review reports, or compilations;

(5) Quality review conducted in such a manner as the board may specify;

(6) Successful completion of the licensing examination;

(7) Conditions or restrictions upon the license, registration, or practice privilege; and

(8) All other requirements or penalties the board finds appropriate to the circumstances of the case and that would achieve the desired disciplinary purposes but that would not impair the public welfare and morals.

(b) In any proceeding in which the board finds that the licensee or holder of a practice privilege has committed any action or omission identified in § 17-12-601, the board may also require the licensee to pay the cost of the proceeding.

(c) Each instance when a federal or state law or any board rule is violated shall constitute a separate violation.

(d) Upon imposition of a sanction, the board may order that the license, permit, certificate, credential, registration, or practice privilege be suspended until its holder has complied in full with all applicable sanctions imposed under this section.

(e)(1) The power and authority of the board to impose sanctions authorized in this section are independent of and in addition to any other civil or criminal proceeding concerning the same violation.

(2) The imposition of a penalty does not preclude the board from imposing other sanctions short of revocation.

(f) The board is authorized to file suit in either the Pulaski County Circuit Court or the circuit court of any county in which the defendant resides or does business to collect any monetary penalty assessed under this chapter if the penalty is not paid within the time prescribed by the board.

History. Acts 1975, No. 160, § 13; A.S.A. 1947, § 71-623; Acts 1997, No. 242, § 19; 1999, No. 180, § 39; 2005, No. 54, § 18; 2009, No. 93, § 10; 2013, No. 90, § 8.

Amendments. The 2013 amendment rewrote (a)(2).

CHAPTER 14

APPRAISERS

SUBCHAPTER.
4. Appraisal Management Company Registration Act.

Subchapter 3 — Licensing Restrictions

17-14-305. Compliance with uniform standards and code of ethics — Seals — Licensing and certification documents.

CASE NOTES

Cited: Chandler v. Ark. Appraiser Licensing & Certification Bd., 2011 Ark. 519, — S.W.3d — (2011).

Subchapter 4 — Appraisal Management Company Registration Act

SECTION.
17-14-408. Prohibited activities.

17-14-408. Prohibited activities.

(a) An employee, director, officer, or agent of an appraisal management company or any other third party acting as a joint venture partner with or independent contractor for an appraisal management company shall not improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal, including without limitation through the use of intimidation, coercion, extortion, bribery, blackmail, threat of nonpayment or withholding payment for appraisal services, or threat of exclusion from future appraisal work.

(b) A registrant shall not:

(1) Require an appraiser to collect the appraisal fee from a borrower, homeowner, or other third party;

(2) Require an appraiser to provide the registrant with the appraiser's digital signature or seal;

(3) Alter, amend, or change an appraisal report submitted by a licensed or certified appraiser, including without limitation by:

(A) Removing the appraiser's signature or seal; or

(B) Adding or removing information to or from the appraisal report;

(4)(A) Allow the removal of an independent appraiser from an appraiser panel without prior written notice to the appraiser.

(B) Written notice shall include written evidence of:

(i) The appraiser's illegal conduct;

(ii) A violation of the minimum reporting standards under § 17-14-202(b) or other applicable statutes or rules;

(iii) Substandard performance; or

(iv) Otherwise improper or unprofessional behavior;

(5) Enter into contracts or agreements with an independent appraiser for the performance of appraisal services unless the independent appraiser is licensed or certified in good standing with the Arkansas Appraiser Licensing and Certification Board;

(6) Request that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report or provide estimated values or comparable sales at any time before the appraiser completes an appraisal report;

(7)(A) Except as provided in subdivision (b)(7)(B) of this section, provide to an appraiser an anticipated, estimated, encouraged, or desired value for a property or a proposed or target amount to be loaned to the borrower.

(B) A copy of the sales contract for purchase transactions may be provided; or

(8) Commit an act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.

(c) Subsection (a) of this section does not prohibit an appraisal management company from requesting that an independent appraiser:

(1) Provide additional information about the basis for a valuation;

(2) Correct objective factual errors in an appraisal report; or

(3) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

History. Acts 2009, No. 628, § 1; 2013, No. 516, § 1.

Amendments. The 2013 amendment substituted "A registrant" for "The registrant" in the introductory language; deleted former (b)(2) and redesignated the remaining subdivisions accordingly; and substituted "(b)(7)(B)" for "(b)(8)(B)" in (b)(7)(A).

CHAPTER 15
ARCHITECTS

SUBCHAPTER.
3. Registration and Licensing.

Subchapter 3 — Registration and Licensing

SECTION.
17-15-302. Exemptions.
17-15-312. Practice by architect not registered in Arkansas.

17-15-302. Exemptions.

(a) The following shall be exempt from the provisions of this chapter:

(1) A professional engineer, as defined in § 17-30-101, but only for work incidental to engineering practice if the professional engineer does not use the designation "architect" or any related term;

(2) Employees of those lawfully practicing architecture who are acting under the instruction, control, or supervision of their employer;

(3) Officers and employees of the government of the United States while engaged within this state in the practice of architecture for the government;

(4) Residents of this state who do not use the title "architect" or any term derived therefrom who act as designers for:

(A) Buildings that are to be constructed for personal use, such as residences, if the buildings are not intended or adaptable for public employment, assembly, or any other use under which they will be open to the public;

(B) Single family detached, duplex, triplex, and quadruplex dwellings; or

(C) Buildings whose total cumulative and fair market value to complete, not including site, does not exceed one hundred thousand dollars ($100,000); and

(5) Owners and employees of planing mills, woodworking establishments, sash and door manufacturers, and jobbers in the designing, planning, detailing, and preparation of data on millwork, woodwork, and cabinetwork, provided they do not use the designation "architect" or any term derived therefrom.

(b)(1) The terms of this chapter shall not apply to:

(A) Any public school district exempted from the provisions of this chapter; or

(B) Every public school district embracing a city with a population in excess of thirty thousand (30,000) which maintains a full-time superintendent of buildings with engineering and architectural experience.

(2) This exception shall only apply:

(A) If the total cumulative and fair market value to complete the repair and maintenance of buildings already constructed and altera-

tions thereof does not exceed the sum of one hundred thousand dollars ($100,000); and

(B) If the total cumulative and fair market value to complete the new structures will not exceed the sum of one hundred thousand dollars ($100,000).

(c) The provisions of this chapter shall not apply to any public school district, place of assembly, daycare, church, or building not more than one (1) story high where:

(1) The total cumulative and fair market value to complete the building, alteration, or structure does not exceed the sum of one hundred thousand dollars ($100,000); and

(2) The plans are approved by the State Fire Marshal.

History. Acts 1941, No. 270, § 2; 1959, No. 157, § 1; 1971, No. 582, § 1; 1973, No. 417, § 1; 1975 (Extended Sess., 1976), No. 1204, § 1; 1981, No. 18, § 1; A.S.A. 1947, § 71-302; reen. Acts 1987, No. 1002, § 1; 1995, No. 860, § 2; 1995, No. 1108, §§ 1, 2; 1999, No. 1338, § 3; 2011, No. 897, § 12.

Amendments. The 2011 amendment substituted "A professional engineer, as defined in § 17-30-101" for "Professional engineers duly licensed or registered" in (a)(1).

17-15-312. Practice by architect not registered in Arkansas.

(a) This chapter does not prevent:

(1) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards from offering to render the professional services involved in the practice of architecture, if for every project the person is involved in, he or she notifies the Arkansas State Board of Architects, Landscape Architects, and Interior Designers in writing that he or she:

(A) Holds a National Council of Architectural Registration Boards certificate and is not currently registered in Arkansas but will be present in Arkansas for the purposes of offering to render architectural services for a single project;

(B) Will deliver a copy of the notice referred to in subdivision (a)(1)(A) of this section to every potential client to whom the applicant offers to render architectural services; and

(C) Promises to apply to the Arkansas State Board of Architects, Landscape Architects, and Interior Designers within thirty (30) days for registration if selected as the architect for the project;

(2) A person who holds the certification issued by the National Council of Architectural Registration Boards but who is not currently registered in Arkansas from seeking an architectural commission by participating in a single architectural design competition for a project in Arkansas, if for every project the person is involved in, the person notifies the Arkansas State Board of Architects, Landscape Architects, and Interior Designers in writing that:

(A) The person holds a National Council of Architectural Registration Boards certificate and is not currently registered in the jurisdic-

tion but will be present in Arkansas for the purpose of participating in an architectural design competition;

(B) The person will deliver a copy of the notice referred to in subdivision (a)(2)(A) of this section to every person conducting an architectural design competition in which the applicant participates; and

(C) The person promises to apply to the Arkansas State Board of Architects, Landscape Architects, and Interior Designers within thirty (30) days after being selected as the architect for the project; and

(3)(A) A person who is not currently registered in this state but who is currently registered in another jurisdiction from providing uncompensated professional services at the scene of an emergency at the request of a public officer, public safety officer, or municipal or county building inspector acting in an official capacity.

(B) "Emergency" means earthquake, eruption, flood, storm, hurricane, or other catastrophe that has been designated as a major disaster or emergency by the President of the United States or the Governor of Arkansas.

(b) An individual who possesses a professional degree in architecture and is enrolled in the Intern Development Program of the National Council of Architectural Registration Boards or under the jurisdiction of the Arkansas State Board of Architects, Landscape Architects, and Interior Designers may use the title "Architectural Intern" or "Intern Architect" to identify himself or herself.

History. Acts 1999, No. 1338, § 5; 2009, No. 1367, § 10; 2011, No. 859, § 1.

Amendments. The 2011 amendment redesignated the section.

CHAPTER 16

ATHLETE AGENTS

SUBCHAPTER.

1. Uniform Athlete Agents Act.

Subchapter 1 — Uniform Athlete Agents Act

SECTION.

17-16-102. Definitions.
17-16-111. Notice to educational institution.
17-16-114. Prohibited conduct.
17-16-115. Criminal penalties.
17-16-117. Administrative penalty.
17-16-123. Revocation of registration.

Effective Dates. Acts 2011, No. 204, § 8: Mar. 8, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this bill reforms the athlete agent laws of Arkansas to protect student athletes from unscrupulous actions by athlete agents; that the issues sought to be addressed by this act are currently ongoing and present problems for student athletes

and institutions of higher education; and that the reforms instituted by this act should become effective as soon as possible to address these issues. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

17-16-102. Definitions.

In this subchapter:

(1) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract.

(2)(A) "Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract.

(B) "Athlete agent" includes without limitation an individual who:

(i) Is authorized by a student-athlete to enter into an agreement;

(ii) Works for or on behalf of an athlete agent; or

(iii) Represents to the public that he or she is an athlete agent.

(C) "Athlete agent" does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team, professional sports organization, or educational institution, unless that individual offers, solicits for himself or herself, solicits on the student-athlete's behalf, or solicits on behalf of the student-athlete's family or friends any form of a financial benefit or gift not allowed by the regulations or bylaws of the National Collegiate Athletic Association as they existed on January 1, 2011.

(3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract.

(5) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

(6) "Family" means any person related to a student-athlete by blood, marriage, or adoption.

(7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete

are established by a national association for the promotion or regulation of collegiate athletics.

(8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(9) "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(11) "Registration" means registration as an athlete agent pursuant to this subchapter.

(12) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(13) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

History. Acts 2001, No. 1622, § 2; 2011, No. 204, § 2.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: "This act shall be known and may be cited as the 'Athlete Agent Reform Act of 2011'."

Amendments. The 2011 amendment rewrote (2); and inserted present (6) and redesignated the remaining subdivisions accordingly.

17-16-111. Notice to educational institution.

(a)(1) If a student-athlete is enrolled in an educational institution, an athlete agent shall provide notice to the athletic director of the educational institution at which the student-athlete is enrolled before contacting the student-athlete.

(2) If an athlete agent intentionally or unintentionally contacts a student-athlete enrolled in an educational institution, the athlete agent shall notify the athletic director of the educational institution at which the student-athlete is enrolled within seventy-two (72) hours of the contact.

(b) Within seventy-two (72) hours after entering into an agency contract or verbally agreeing to enter into an agency contract, or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract or verbal agreement to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(c) Within seventy-two (72) hours after entering into an agency contract or verbally agreeing to enter into an agency contract, or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract or has verbally agreed to enter into an agency contract.

History. Acts 2001, No. 1622, § 9; 2011, No. 204, § 3.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: "This act shall be known and may be cited as the 'Athlete Agent Reform Act of 2011'."

Amendments. The 2011 amendment added present (a) and redesignated the remaining subsections accordingly; inserted "or verbally agreeing to enter into an agency contract" in (b) and (c); inserted "or verbal agreement" in (b); and added "or has verbally agreed to enter into an agency contract" at the end of (c).

17-16-114. Prohibited conduct.

(a) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

(1) give any materially false or misleading information or make a materially false promise or representation;

(2) furnish a good or service of value or arrange for a good or service of value to be furnished to a student-athlete before the student-athlete enters into the agency contract; or

(3) furnish a good or service of value or arrange for a good or service of value to be furnished to any individual other than the student-athlete or another registered athlete agent.

(b) An athlete agent may not intentionally:

(1) initiate contact with a student-athlete unless registered under this subchapter;

(2) refuse or fail to retain or permit inspection of the records required to be retained by § 17-16-113;

(3) fail to register when required by § 17-16-104;

(4) provide materially false or misleading information in an application for registration or renewal of registration;

(5) predate or postdate an agency contract; or

(6) fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

History. Acts 2001, No. 1622, § 12; 2011, No. 204, § 4.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: "This act shall be known and may be cited as the 'Athlete Agent Reform Act of 2011'."

Amendments. The 2011 amendment, in (a)(2) and (a)(3), substituted "a good or service" for "anything," and inserted "or arrange for a good or service of value to be furnished."

17-16-115. Criminal penalties.

(a) An athlete agent who violates § 17-16-114(a) is guilty of a Class D felony.

(b) An athlete agent who violates § 17-16-114(b) is guilty of a Class A misdemeanor.

History. Acts 2001, No. 1622, § 13; 2011, No. 204, § 5.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: "This act shall be known and may be cited as the 'Athlete Agent Reform Act of 2011'."

Amendments. The 2011 amendment inserted present (a) and redesignated the existing language as (b); and substituted "§ 17-16-114(b)" for "§ 17-16-114" in (b).

17-16-117. Administrative penalty.

The Attorney General may seek a civil penalty in any court of competent jurisdiction against an athlete agent not to exceed two hundred fifty thousand dollars ($250,000) for a violation of this subchapter.

History. Acts 2001, No. 1622, § 15; 2011, No. 204, § 6.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: "This act shall be known and may be cited as the 'Athlete Agent Reform Act of 2011'."

Amendments. The 2011 amendment substituted "two hundred fifty thousand dollars ($250,000)" for "fifty thousand dollars ($50,000)."

17-16-123. Revocation of registration.

(a)(1) A court of competent jurisdiction may revoke a certificate of registration before, during, or after a proceeding seeking a criminal, civil, or administrative penalty under this subchapter.

(2) When revoking a certificate of registration, a court of competent jurisdiction may declare a person ineligible to reapply for a certificate of registration for a period of time not to exceed five (5) years.

(b) A court of competent jurisdiction may revoke registration under this section in lieu of or in addition to other criminal, civil, or administrative penalties under this subchapter.

History. Acts 2011, No. 204, § 7.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: "This act shall be known and may be cited as the 'Athlete Agent Reform Act of 2011'."

CHAPTER 17

AUCTIONEERS

SUBCHAPTER.

3. Licensing.

Subchapter 3 — Licensing

SECTION.

17-17-312. Criminal background checks.

17-17-312. Criminal background checks.

(a) Beginning July 16, 2003, each first-time applicant for a license issued by the Auctioneer's Licensing Board and each applicant seeking reinstatement of an expired license from the board shall be required to apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check to be conducted by the Federal Bureau of Investigation.

(b) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the board and shall be responsible to the Department of Arkansas State Police for the payment of any fee associated with the criminal background check.

(d) Upon completion of the criminal background check, the Identification Bureau of the Department of Arkansas State Police shall forward to the board all information obtained concerning the applicant in the commission of any offense listed in subsection (f) of this section.

(e) At the conclusion of any background check required by this section, the Identification Bureau of the Department of Arkansas State Police shall promptly destroy the fingerprint card of the applicant.

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:

(1) Capital murder, as prohibited in § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in § 5-10-104;

(4) Negligent homicide, as prohibited in § 5-10-105;

(5) Kidnapping, as prohibited in § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in § 5-11-103;

(7) Permanent detention or restraint, as prohibited in § 5-11-106;

(8) Robbery, as prohibited in § 5-12-102;

(9) Aggravated robbery, as prohibited in § 5-12-103;

(10) Battery in the first degree, as prohibited in § 5-13-201;

(11) Aggravated assault, as prohibited in § 5-13-204;

(12) Introduction of a controlled substance into the body of another person, as prohibited in § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in § 5-13-301;

(14) Rape, as prohibited in § 5-14-103;

(15) Sexual indecency with a child, as prohibited in § 5-14-110;

(16) Sexual assault in the first degree, second degree, third degree, and fourth degree, as prohibited in §§ 5-14-124 — 5-14-127;

(17) Incest, as prohibited in § 5-26-202;

(18) Offenses against the family, as prohibited in §§ 5-26-303 — 5-26-306;

(19) Endangering the welfare of an incompetent person in the first degree, as prohibited in § 5-27-201;

(20) Endangering the welfare of a minor in the first degree, as prohibited in § 5-27-205;

(21) Permitting the abuse of a child, as prohibited in § 5-27-221;

(22) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;

(23) Felony adult abuse, as prohibited in § 5-28-103;

(24) Theft of property, as prohibited in § 5-36-103;

(25) Theft by receiving, as prohibited in § 5-36-106;

(26) Arson, as prohibited in § 5-38-301;

(27) Burglary, as prohibited in § 5-39-201;

(28) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-510, as prohibited in the former § 5-64-401 and §§ 5-64-419 — 5-64-442;

(29) Promotion of prostitution in the first degree, as prohibited in § 5-70-104;

(30) Stalking, as prohibited in § 5-71-229; and

(31) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

(g)(1) The provisions of subsection (f) of this section may be waived by the board upon the request of:

(A) An affected applicant for licensure; or

(B) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references; and

(F) Character references.

(h)(1) Any information received by the board from the Identification Bureau of the Department of Arkansas State Police under this section shall not be available for examination except by the:

(A) Affected applicant for licensure, or his or her authorized representative; or

(B) Person whose license is subject to revocation, or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.

(i) Any information made available to the affected applicant for licensure or to the person whose license is subject to revocation shall be information pertaining to that person only.

(j) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(k) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section.

History. Acts 2003, No. 834, § 1; 2011, No. 570, § 119.

A.C.R.C. Notes. Acts 2011, No. 570, § 1, provided: "Legislative intent. The intent of this act is to implement comprehensive measures designed to reduce recidivism, hold offenders accountable, and contain correction costs."

Amendments. The 2011 amendment, in (f)(28), substituted "§ 5-64-510" for "§ 5-64-608" and inserted "the former" and "and §§ 5-64-419 — 5-64-442."

CHAPTER 19

BAIL BONDSMEN

SUBCHAPTER.

1. General Provisions.
2. Licensing.
3. Bond Requirements — Posting of Bondsmen List.
4. Continuing Education Program.

Subchapter 1 — General Provisions

SECTION.

17-19-110. Licensed bail bond agent.
17-19-111. Fees.
17-19-112. Unpaid Bond Forfeiture Judgment Limits.

17-19-106. Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

A.C.R.C. Notes. Acts 2012, No. 182, § 4, provided: "FUND TRANSFER. The Professional Bail Bondsman Licensing Board, at the end of each fiscal year, shall transfer all but twenty-five percent (25%) of its fund balance to the General Revenue Fund Account in the State Treasury.

"The provisions of this section shall be in effect only from July 1, 2012 through June 30, 2013."

Acts 2013, No. 57, § 4, provided: "FUND TRANSFER. The Professional Bail Bondsman Licensing Board, at the end of each fiscal year, shall transfer all but twenty-five percent (25%) of its fund balance to the General Revenue Fund Account in the State Treasury.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

17-19-110. Licensed bail bond agent.

(a) A licensed bail bond agent shall be permitted to write a bail bond in any county if:

(1) The agent has a current license with a current licensed professional bail bond company; and

(2) The agent and the agent's company are in good standing with the courts in the jurisdiction where the bond is to be posted.

(b) A licensed bail bond agent shall carry a current copy of his or her professional bail bond agent license that shall indicate which professional bail bond company the bondsman works for and his or her qualifying power of attorney that is on file with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(c)(1) Only one (1) power of attorney per bond not exceeding the agent's qualifying power of attorney shall be permitted unless a court has separated the charges and amounts of bonds.

(2) Powers of attorney shall not be stacked.

History. Acts 1993, No. 402, § 1; 1999, No. 567, § 2; 2003, No. 1648, § 3; 2011, No. 94, § 1.

Amendments. The 2011 amendment deleted "with a current copy of his or her license" following "any county" in the introductory language of (a); and substituted "professional bail bond agent license that shall indicate which professional bail bond company the bondsman works for and his or her" for "company's license, his or her bail bond agent license, and a current copy of his or her" in (b).

17-19-111. Fees.

(a) Notwithstanding any other provisions of this chapter to the contrary, and notwithstanding any other provisions of Arkansas law to the contrary, a professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 is hereby required to charge, collect, and remit the following fees into the Bail Bondsman Board Fund for the support, personnel, maintenance, and operations of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board and for the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission, in addition to any other fees, taxes, premium taxes, levies, or other assessments imposed in connection with the issuance of bail bonds under Arkansas law.

(b)(1) In addition to the bail or appearance bond premium or compensation allowed under § 17-19-301, each licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 shall charge and collect as a nonrefundable fee for the Bail Bondsman Board Fund an additional ten-dollar fee per bail bond for giving bond for each and every bail and appearance bond issued by the licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 by or through its individual licensees.

(2) The fees shall be collected quarterly and then reported and filed with the board no later than fifteen (15) calendar days after the end of each quarter.

(3) The notarized quarterly reporting form and a notarized annual reconciliation form as to all fees collected for the Bail Bondsman Board Fund shall be filed by each professional bail bond company on forms

prescribed by the board and at the times and in the manner as the board shall prescribe in conformity with this section.

(4) A paper-processing charge of fifteen dollars ($15.00) shall be collected on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reporting requirements contained herein and to further defray the surety's costs incurred in the collection of all fees due, owing, and collected on behalf of the Bail Bondsman Board Fund and the surety's costs incurred in the preparation of all required reports submitted in conformance with the standards established by the American Institute of Certified Public Accountants.

(c)(1) The board may, in its discretion, grant an extension for the filing of the report and fees for good cause shown upon timely written request.

(2) Absent an extension for good cause shown, each licensed professional bail bond company failing to report or pay these fees shall be liable to the Bail Bondsman Board Fund for a monetary penalty of one hundred dollars ($100) per day for each day of delinquency.

(3) The board may pursue any appropriate legal remedies on behalf of the Bail Bondsman Board Fund to collect any delinquent fees and penalties owed as special revenues.

(d)(1) Upon collection of the fees and any monetary penalties, the board shall deposit or fund as special revenues:

(A) Sufficient fees and penalties directly into the Bail Bondsman Board Fund to provide for the personal services and operating expenses of the board; and

(B) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2) The fees and penalties shall be in addition to all other fees, licensure or registration fees, taxes, assessments, levies, or penalties payable to any federal or state office, court, agency, board, or commission or other public official or officer of the state, or its political subdivisions, including counties, cities, or municipalities, by a professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102.

(3)(A) Each individual bail bondsman is required to assist in collection of the fees but is exempt from the duty and responsibility of payment of the fees to the Bail Bondsman Board Fund unless he or she misappropriates or converts such moneys to his or her own use or to the use of others not entitled to the fees.

(B) In that case, the board shall proceed on behalf of the Bail Bondsman Board Fund with any civil or criminal remedies at its disposal against the individual responsible.

(C) Upon criminal conviction of the individual responsible for fraudulent conversion of the moneys due the Bail Bondsman Board Fund, the individual responsible shall pay restitution to the Bail Bondsman Board Fund, and the court shall incorporate a finding to that effect in its order.

(D) Absent substantial evidence to the contrary, the violations of the individual may be attributed to the employing bail bond company, and any criminal or civil court may, in its discretion and upon substantial evidence, order the employing bail bond company to pay restitution to the Bail Bondsman Board Fund on behalf of the responsible individual and shall incorporate that finding into its order.

(e) For purposes of any statutory security deposit Arkansas law requires of professional bail bond companies, including, but not limited to, the deposit under § 17-19-205, the payment of the fees required by this section is considered to be a duty of the licensee, so as to allow the board on behalf of the Bail Bondsman Board Fund to make a claim against any such deposit for the fees required by this section and any penalties owed thereon, up to the limit of any security deposit.

(f) Under no circumstances shall the fees or penalties thereon held in or for deposit into the Bail Bondsman Board Fund as special revenues be subject to any tax, levy, or assessment of any kind, including, but not limited to, any bond forfeiture claims, any garnishment or general creditors' claims, any remedies under Title 16 of this Code, or other provisions of Arkansas law.

History. Acts 1993, No. 901, § 31; 1997, No. 1096, § 1; 1997, No. 1248, § 39; 2007, No. 730, § 1; 2013, No. 1281, § 1.

Amendments. The 2013 amendment substituted "Bail Bondsman Board Fund" for "State Insurance Department Trust Fund," and "fund," and "board" for "commissioner" throughout the section; in (a), substituted "company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 is " for "companies are," deleted "for direct deposit as special revenues" following "the following fees," substituted "Professional Bail Bond Company and Professional Bail Bondsman Licensing Board" for "State Insurance Department," and deleted "by professional bail bond companies" preceding "under Arkansas law"; inserted "county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102" twice in (b)(1); inserted "or fund" in (d)(1); substituted "board" for "Professional Bail Bond Company and Professional Bail Bondsman Licensing Board under subsection (g) of this section" in (d)(1)(A); substituted "company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102" for "companies" in (d)(2); and deleted (g).

17-19-112. Unpaid Bond Forfeiture Judgment Limits.

(a)(1) There shall be an initial one hundred thousand dollars ($100,000) limit on active unpaid bond forfeiture judgments for each bail bonding company.

(2) Under this section, the amount of unpaid forfeiture or forfeitures shall be determined using the face value of an unpaid forfeited bond.

(b) When the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board is notified of a bond forfeiture judgment under § 17-19-208(b)(1) and has issued notice to the company after ninety (90) days from the date of judgment has elapsed, the value of the forfeited bond shall count against that company's respective limit.

(c) When a company's unpaid bond forfeiture or forfeitures reach one hundred thousand dollars ($100,000) or the total amount of security

deposit posted with the board, whichever is higher, the company license shall be suspended.

(d) The license shall remain suspended until:

(1) The company can post an additional certificate of deposit or letter of credit with the board so that the company's security deposit exceeds the unpaid bond forfeiture or forfeitures amount;

(2) The bond forfeiture judgment or judgments are paid to the extent that the total amount of unpaid forfeiture or forfeitures are less than the security deposit posted with the board; or

(3)(A) The court that entered the bond forfeiture judgment releases the company's security deposit from responsibility on the unpaid forfeiture as required by § 17-19-208(a)(1).

(B) If the court releases the company's security deposit from responsibility on an unpaid bond forfeiture judgment, the release must be decreed by court order.

(e) If the court releases the company's security deposit from liability on a bond forfeiture, that bond amount shall not count against the company's unpaid forfeiture limit.

(f) A company's unpaid bond forfeiture limit shall not exceed one hundred thousand dollars ($100,000) unless the company has posted additional security with the board and shall never exceed the company's total amount of posted security deposit or one hundred thousand dollars ($100,000), whichever is more.

History. Acts 2011, No. 96, § 1.

Subchapter 2 — Licensing

SECTION.
17-19-206. Duties of board and clerks.
17-19-209. Violations — Hearings.
17-19-210. Suspension and penalties — Review.
SECTION.
17-19-211. [Repealed.]

17-19-206. Duties of board and clerks.

(a) Before issuance of a license under this chapter, applicants for a license shall satisfy the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board as to Arkansas residency, trustworthiness, and competence, as applicable, and shall otherwise comply with the conditions and qualifications set forth in this chapter.

(b)(1) The board may refuse to issue a license to an applicant who fails to comply with the provisions of this chapter or rule of the board.

(2) The board may refuse to issue a license to an applicant that has made a material misrepresentation in the application for a license.

(c) Upon the approval and issuance of a license under this chapter, the board shall give notice to the sheriff of each county in the state.

(d) Upon revocation or suspension of license, the board shall give notice to that effect to the sheriff in each county in the state.

(e) The board shall maintain a complete record of registrations, revocations, and suspensions, and the record shall be available to the sheriff and county clerk of each county of the state.

(f) Annually, the board shall furnish the sheriffs with a list of renewal licenses.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 2007, No. 674, § 1; 2011, No. 95, § 1.

Amendments. The 2011 amendment deleted "or regulation" following "chapter or rule" in (b)(1); in (c) and (d), deleted "written" preceding "notice" and "and circuit clerk" following "sheriff"; and deleted "and circuit clerks" following "the sheriffs" in (f).

17-19-209. Violations — Hearings.

(a) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall investigate any alleged violation of this chapter.

(b) Any person may file a complaint stating facts constituting an alleged violation of this chapter. The complaint shall be signed under penalty of perjury.

(c) All hearings held under this chapter shall be conducted in the same manner as hearings held by the board under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., unless otherwise stated in this chapter.

(d)(1)(A) With respect to the subject of any examination, investigation, or hearing being conducted by the board, the board or the Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, with board approval, may subpoena witnesses and administer oaths and affirmations, and examine an individual under oath, and may require and compel the production of records, books, papers, contracts, and other documents.

(B) A professional bail bondsman or professional bail bond company that fails to comply with this section may be subject to penalties under § 17-19-210.

(2) Subpoenas of witnesses shall be served in the same manner as if issued by a circuit court and may be served by certified mail.

(3) If any individual fails to obey a subpoena issued and served pursuant to this section with respect to any matter concerning which he or she may be lawfully interrogated, upon application of the board, the Pulaski County Circuit Court may issue an order requiring the individual to comply with the subpoena and to testify.

(4) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(5) Any person willfully testifying falsely under oath to any matter material to any examination, investigation, or hearing shall upon conviction be guilty of perjury and punished accordingly.

(e) Not less than ten (10) days in advance, the board shall give notice of the time and place of the hearing, stating the matters to be considered at the hearing.

(f) The board shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his or her interest, and to have subpoenas issued by the board to compel attendance of witnesses and production of evidence in his or her behalf.

(g)(1) A party may appeal from any order of the board as a matter of right and shall be taken to the Pulaski County Circuit Court by filing written notice of appeal to the court and by filing a copy of the notice with the board.

(2) Within thirty (30) days after filing the copy of a notice of appeal with the board, the board shall make, certify, and deposit in the office of the clerk of the court in which the appeal is pending a full and complete transcript of all proceedings had before the board and all evidence before the board in the matter, including all of the board's files therein.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 1997, No. 973, § 6; 1999, No. 1477, § 1; 2003, No. 1174, § 1; 2011, No. 218, § 1.

Amendments. The 2011 amendment redesignated former (d)(1) as present (d)(1)(A); inserted "or the Executive Director . . . with board approval" in (d)(1)(A); and added (d)(1)(B).

CASE NOTES

Counsel.

Bail bond agent did not receive disparate treatment because in the notice of hearing sent to him by the Arkansas Professional Bail Bondsman Licensing Board, the agent was advised that he had the right to be represented by counsel; the agent was given the same opportunity to be represented by counsel as were a bonding company and its owner. Hester v. Ark. Prof'l Bail Bondsman Licensing Bd., 2011 Ark. App. 389, 383 S.W.3d 925 (2011).

17-19-210. Suspension and penalties — Review.

(a) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, should it determine that the licensee or any member of a company which is so licensed committed an act listed in subsection (b) of this section, may:

(1) Suspend the license for up to twelve (12) months;

(2) Revoke or refuse to continue any license;

(3) Impose an administrative penalty in an amount not to exceed ten thousand dollars ($10,000); or

(4) Impose both a suspension of up to twelve (12) months and an administrative penalty in an amount not to exceed ten thousand dollars ($10,000).

(b) A licensee is subject to the penalties of subsection (a) of this section should it be found that the licensee:

(1) Violated any provision of or any obligation imposed by this chapter or any lawful rule, regulation, or order of the board or has been convicted of a felony or any offense involving moral turpitude;

(2) Made a material misstatement in the application for license, in the application for renewal license, or in the financial statement which

accompanies the application or renewal application for license as a professional bail bond company;

(3) Committed any fraudulent or dishonest acts or practices or demonstrated incompetency or untrustworthiness to act as a licensee;

(4) Charged or received, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by law;

(5) Required as a condition of executing a bail bond that the principal agrees to engage the services of a specified attorney;

(6) Signed, executed, or issued bonds with endorsements in blank, or prepared or issued fraudulent or forged bonds or power of attorney;

(7) Failed in the applicable regular course of business to account for and to pay premiums held by the licensee in a fiduciary capacity to the professional bail bond company or other person entitled thereto; or

(8) Failed to comply with the provisions of the laws of this state, or rule, regulation, or order of the board for which issuance of the license could have been refused had it then existed and been known to the board.

(c) The acts or conduct of a professional bail bondsman who acts within the scope of the authority delegated to him or her shall also be deemed the act or conduct of the professional bail bond company for which the professional bail bondsman is acting as agent.

(d) If the board finds that one (1) or more grounds exist for the suspension or revocation of a license, the board may in its discretion request that formal charges be filed against the violator and that penalties set out in § 17-19-102 be imposed.

(e) If the board finds that one (1) or more grounds exist for the suspension or revocation of a license and that the license has been suspended within the previous twenty-four (24) months, then the board shall revoke the license.

(f) The board may not again issue a license under this chapter to any person or entity whose license has been revoked.

(g) If the board determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, a summary suspension of a license issued under this chapter may be ordered pending an administrative hearing before the board, which shall be promptly instituted.

(h) If a professional bail bond company license is so suspended or revoked, a member of the company or officer or director of the corporation shall not be licensed or be designated in any license to exercise the powers thereof during the period of the suspension or revocation, unless the board determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

(i) The action of the board in issuing or refusing to issue or in suspending or revoking any license shall be subject to review by the Pulaski County Circuit Court upon filing of an action therefor within thirty (30) days after the issuance of written notice by the board of the action taken.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 2011, No. 97, § 1.

Amendments. The 2011 amendment inserted "and penalties" in the section heading; rewrote the introductory language of (a) and inserted (a)(1) through (a)(4); added the introductory language of (b) and redesignated former (a)(1) through (a)(8) as (b)(1) through (b)(8); redesignated former (b) through (h) as (c) through (i); deleted "his or her" following "demonstrated" in (b)(3); and deleted "his or her" following "condition of" in (b)(5).

CASE NOTES

Revocation of License.

Circuit court did not err in affirming the revocation of a bail bond agent's license by the Arkansas Professional Bail Bondsman Licensing Board for violating §§ 17-19-101 et seq., because there was substantial evidence before the Board from which it could conclude that the agent had knowledge of and authorized a nonlicensed individual's actions; the agent instructed the individual, who was hired by the owner of a bonding company to perform office work, to "catch" or apprehend someone in violation of § 16-84-114(b)(2), and the agent expressly testified that the individual acted pursuant to his direction. Hester v. Ark. Prof'l Bail Bondsman Licensing Bd., 2011 Ark. App. 389, 383 S.W.3d 925 (2011).

17-19-211. [Repealed.]

Publisher's Notes. This section, concerning administrative penalty, was repealed by Acts 2011, No. 97, § 2. The section was derived from Acts 1989, No. 417, § 1; 1995, No. 827, § 5; 1997, No. 973, § 7.

Subchapter 3 — Bond Requirements — Posting of Bondsmen List

SECTION.

17-19-301. Premiums.
17-19-304. [Repealed.]

Effective Dates. Acts 2013, No. 1283, § 6: Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that collection of fees for bail bonds fund various necessary programs in our state; that the law is currently unclear on the collection of these fees; and that this act is necessary because the law needs to be clear on the collection of these fees so that the programs are funded properly in a timely manner. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

17-19-301. Premiums.

(a) With the exception of other provisions of this section, the premium or compensation for giving bond or depositing money or property as bail on any bond shall be ten percent (10%), except that the amount may be rounded up to the nearest five-dollar amount.

(b) The minimum compensation for giving bond or depositing money or property as bail on any bond shall be not less than fifty dollars ($50.00).

(c) If a bail bond or appearance bond issued by a licensee under this chapter must be replaced with another bail bond or appearance bond because of the licensee's violation of any provision of the laws of this state or any rule, regulation, or order of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, the licensee who violated the provision and who caused the replacement to be required shall pay all the premium amount for the replacement bond, in an amount not to exceed the amount of the original bond, without any contribution from the respective defendant or principal.

(d)(1)(A) In addition to the ten-percent bail or appearance bond premium or compensation allowed in subsection (a) of this section, and starting on July 1, 2013, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect as a nonrefundable administrative and regulatory fee for the board an additional ten dollars ($10.00) per bond fee for giving bond for every bail and appearance bond issued by the licensed professional bail bond company by or through its individual licensees, sheriffs, or keepers of the jail.

(B) The administrative and regulatory fees payable by these companies to the Bail Bondsman Board Fund for the support and operation of the board, and collected by the bail bond companies, sheriffs, or keepers of the jail as required by this section, shall be reported and filed with the board no later than fifteen (15) calendar days after the end of each calendar quarter, contemporaneous with the professional bail bond company's filing of its quarterly bail bond report with the board.

(C) A notarized annual reconciliation of all fees collected in the preceding calendar year for the Bail Bondsman Board Fund shall be filed by each licensed professional bail bond company at a time and on forms prescribed by the board.

(D) The Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board may grant an extension for good cause shown upon timely written request.

(E) The administrative and regulatory fees payable by the bail bond companies, sheriffs, or keepers of the jail to the Bail Bondsman Board Fund shall not exceed ten dollars ($10.00) per bond, as required by this subchapter, exclusive of statutory licensure fees elsewhere in this chapter.

(F) Upon collection of the fees and any monetary penalties, the board shall deposit as special revenues:

(i) Sufficient fees and penalties directly into the Bail Bondsman Board Fund to provide for the personal services and operating expenses of the board under subsection (g) of this section; and

(ii) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2)(A) Absent an extension granted by the executive director for good cause to a company and in addition to any license suspension or revocation, the executive director may order after notice and a hearing a professional bail bond company failing timely to report or pay the regulatory fee to the Bail Bondsman Board Fund by and through the executive director shall be liable to the Bail Bondsman Board Fund for a monetary penalty of one hundred dollars ($100) per day for each day of delinquency.

(B) The board may pursue any appropriate legal remedies on behalf of the Bail Bondsman Board Fund to collect any delinquent fees and penalties owed under this section as special revenues to the Bail Bondsman Board Fund.

(3) Upon collection of the regulatory fees and any monetary penalties payable to the Bail Bondsman Board Fund and assessed under this section, the executive director shall deposit all fees and penalties directly into the Bail Bondsman Board Fund as special revenues.

(4)(A) Upon failure of the bail bond company to remit the fees timely, the board may pursue civil legal remedies against the noncomplying bail bond company on behalf of the Bail Bondsman Board Fund to recover the balance of the fees and any penalties owed.

(B)(i) The board may also fine or suspend or revoke the license of any professional bail bond company failing to make a quarterly report or remit or pay timely the fees required by this section.

(ii) The board may promulgate rules for enforcement.

(5)(A) Other than sole proprietors licensed as professional bail bond companies, individual bail bondsmen are exempt from the duty of payment of the administrative and regulatory fees to the Bail Bondsman Board Fund, except that the individual licenses of individual employees of the professional bail bond company may be suspended or revoked by the board under the administrative procedures provided in this chapter if the individual licensee fails to comply with his or her duties in proper collection of the bail bond premiums earmarked for later payment to the Bail Bondsman Board Fund under this subsection, if he or she converts the moneys to his or her own use, or if he or she commits other infractions in regard to collection of such premium amounts.

(B) In those instances, the violations of the individual may in the board's discretion be attributed to the employing professional bail bond company for good cause shown, and the license of the employing professional bail bond company may be sanctioned by the executive director under the administrative procedures provided in this chapter.

(C) Further, upon criminal conviction of the individual bondsman for theft of property in connection with fraudulent conversion of those premium amounts due the Bail Bondsman Board Fund, the board shall revoke the individual's license and fine or suspend or revoke the license of the employing professional bail bond company if it assisted the individual in such fraudulent conduct.

(6)(A) For purposes of § 17-19-205 requiring the professional bail bond company's deposit of a letter of credit or certificate of deposit for the faithful performance of its duties, the company's payment of the administrative and regulatory fee required by this subsection is the duty of the licensee so as to allow the executive director to make a claim against the security deposit required in § 17-19-205 on behalf of the Bail Bondsman Board Fund for the balance of any owed and unpaid administrative and regulatory fees the professional bail bond company still owes to the Bail Bondsman Board Fund, and the executive director shall promptly make claims against security deposits on behalf of the Bail Bondsman Board Fund, up to the limit of the company's deposit for any remaining fee balance due, in the manner provided in this subchapter for any claim against the deposit required in this subchapter.

(B) Deposits held for the Bail Bondsman Board Fund, or fees or any moneys deposited into the Bail Bondsman Board Fund are not subject to any levy or assessment of any kind, including forfeiture claims, misconduct claims, or general creditor claims of the bail bond company, subject to garnishment or other creditors' remedies under Title 16 of this Code or other provisions of Arkansas law.

(e)(1) In addition to the premiums, compensation, and fees allowed in subsections (a) and (d) of this section, each sheriff, keeper of the jail, or bail bond company shall charge and collect twenty dollars ($20.00) as a nonrefundable fee for the Arkansas Public Defender Commission.

(2) All fees collected shall be forwarded to the board for deposit into the Public Defender User Fee Fund.

(3)(A) The commission shall deposit the money collected into the existing account within the State Central Services Fund entitled "Public Defender User Fees".

(B)(i) Three dollars ($3.00) of each fee collected under this section shall be remitted to each county in the state to defray the operating expenses of each county's public defender office.

(ii) The commission shall remit quarterly to each county treasurer the county's portion of the fee collected under this section using the formula for the County Aid Fund under § 19-5-602.

(4) The fees collected by the bail bond companies required under this subsection shall be reported and filed with the commission quarterly.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed by each bail bond company by February 15 on forms provided by the board.

(6) In addition to the bail or appearance bond premium or compensation allowed under this section and § 17-19-111, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect a processing fee of five dollars ($5.00) on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reports to the commission and to further defray the surety's costs incurred in the collection of all fees on behalf of the commission.

(7) The board may pursue any appropriate legal remedy for the collection of any delinquent fees owed under this subsection.

(8) Upon collection of any fees and penalties, the board shall forward all fees and penalties to the commission for deposit into the Public Defender User Fees Fund account within the State Central Services Fund.

(f)(1) In addition to the premiums, compensation, and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 shall charge and collect as a nonrefundable administrative bail bond fee for the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund an additional fee of six dollars ($6.00) per bail bond for giving bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriffs, keepers of the jail, or any persons authorized to take bail under § 16-84-102.

(2) The fees and penalties collected under this subsection by a professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board for deposit into the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund.

(3) The board shall deposit the money collected into the existing account within the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund to be used for the establishment and operation of alcohol abuse programs, drug abuse programs, crime prevention programs, and other related purposes in the counties.

(4) The fees required under this subsection and collected by the bail bond companies, sheriffs, keepers of the jail, or persons authorized to take bail under § 16-84-102 shall be reported quarterly and filed with the board.

(5)(A) Within fifteen (15) days after receiving the quarterly fees from the bail bond companies, sheriffs, keepers of the jail, or persons authorized to take bail under § 16-84-102, the board shall remit the fees collected under this subsection to the Arkansas Sheriffs' Association.

(B) The Arkansas Sheriffs' Association is the official organization of sheriffs in this state and is organized and exists under the Arkansas Nonprofit Corporation Act, §§ 4-28-201 — 4-28-206 and §§ 4-28-209 — 4-28-224.

(6) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(7) The Department of Finance and Administration may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty to collect the fee under this subsection.

(8) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or in failure to report under this section.

(g)(1)(A) In addition to the premiums and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 shall charge and collect an additional fee of four dollars ($4.00) per bail bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriffs, keepers of the jail, or any persons authorized to take bail under § 16-84-102.

(B) The administrative bail bond fee is nonrefundable and shall be deposited into the Bail Bond Recovery Fund.

(2) The fees and penalties collected under this subsection by the professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the board for deposit into the Bail Bond Recovery Fund.

(3)(A) The board shall deposit the money collected into the existing account within the Bail Bond Recovery Fund.

(B) Use of the funds from the Bail Bond Recovery Fund shall be for professional bail bond forfeitures.

(4) The fees collected by the bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 required under this subsection shall be reported quarterly and filed with the board.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(6) The board may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty under this subsection to collect the fee.

(7) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or for failure to report under this section.

(h) A sheriff, keeper of the jail, and any bail bond company shall collect fees as required under §§ 14-52-111, 17-19-111, 17-19-301, and 21-6-307 and other fees as required by law.

History. Acts 1989, No. 417, § 1; 1993, No. 652, § 6; 1995, No. 827, § 6; 1997, No. 1000, §§ 12-14; 2003, No. 1778, § 1; 2005, No. 1956, § 1; 2007, No. 190, § 1; 2007, No. 730, §§ 2, 3; 2013, No. 1283, §§ 2, 3.

A.C.R.C. Notes. Acts 2011, No. 1066, § 10, provided: "FEE GENERATION AND SUPPORT — BAIL BOND FEES. Unless specified otherwise in Arkansas Code §17-19-301(e) the monies collected by each bail bond company under the authority of §17-19-301(e) shall be deposited into the State Treasury to the credit of the Public Defender User Fees Fund within the State Central Services Fund.

"Of the fee collected by each licensed professional bail bond company, three dollars ($3.00) shall be transferred to the various Counties for the sole purpose of defraying the operating expenses of the local public defenders' office. The remaining monies collected shall be used to defray operating expenses of the Commission.

"On a quarterly basis, from the Bail Bond-County Public Defender line item, the Commission shall remit to each County its portion of the three dollars ($3.00) per bail bond fee collected based upon the formula used for state aid for counties. This formula is as follows: 75% of the money is distributed equally to all

75 Counties and the remaining 25% is distributed per capita.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Acts 2012, No. 255, § 10, provides: "FEE GENERATION AND SUPPORT — BAIL BOND FEES. Unless specified otherwise in Arkansas Code §17-19-301(e) the monies collected by each bail bond company under the authority of §17-19-301(e) shall be deposited into the State Treasury to the credit of the Public Defender User Fees Fund within the State Central Services Fund.

"Of the fee collected by each licensed professional bail bond company, three dollars ($3.00) shall be transferred to the various Counties for the sole purpose of defraying the operating expenses of the local public defenders' office. The remaining monies collected shall be used to defray operating expenses of the Commission.

"On a quarterly basis, from the Bail Bond-County Public Defender line item, the Commission shall remit to each County its portion of the three dollars ($3.00) per bail bond fee collected based upon the formula used for state aid for counties. This formula is as follows: 75% of the money is distributed equally to all 75 Counties and the remaining 25% is distributed per capita.

"The provisions of this section shall be in effect only from July 1, 2012 through June 30, 2013."

Acts 2013, No. 1394, § 10, provides: "FEE GENERATION AND SUPPORT — BAIL BOND FEES. Unless specified otherwise in Arkansas Code §17-19-301(e) the monies collected by each bail bond company under the authority of §17-19-301(e) shall be deposited into the State Treasury to the credit of the Public Defender User Fees Fund within the State Central Services Fund.

"Of the fee collected by each licensed professional bail bond company, three dollars ($3.00) shall be transferred to the various Counties for the sole purpose of defraying the operating expenses of the local public defenders' office. The remaining monies collected shall be used to defray operating expenses of the Commission.

"On a quarterly basis, from the Bail Bond-County Public Defender line item, the Commission shall remit to each County its portion of the three dollars ($3.00) per bail bond fee collected based upon the formula used for state aid for counties. This formula is as follows: 75% of the money is distributed equally to all 75 Counties and the remaining 25% is distributed per capita.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Amendments. The 2013 amendment rewrote (d) and (e); and added (f) through (h).

17-19-304. [Repealed.]

Publisher's Notes. This section, concerning maximum amount of unsecured bond, was repealed by Acts 2011, No. 343, § 1. The section was derived from Acts 1989, No. 417, § 1; 1993, No. 1278, § 1; 1995, No. 827, § 7.

Subchapter 4 — Continuing Education Program

SECTION.
17-19-402. Establishment of program — Schedule of fees.

17-19-402. Establishment of program — Schedule of fees.

(a)(1) The Arkansas Professional Bail Association on an annual basis shall solicit proposals from education provider applicants that are approved by the State Board of Private Career Education as education providers, and the Arkansas Professional Bail Association will submit

the approved providers to the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board for final approval.

(2) Upon review of the proposals, the association shall designate an entity or entities to establish an educational program for professional bail bondsmen that will enable bail bondsmen to meet the prelicense and continuing education requirements of § 17-19-212 and § 17-19-401 et seq.

(b)(1) The association or its designee shall establish a schedule of fees to be paid by each bail bondsman for the educational training.

(2) The schedule of fees submitted by the association shall be subject to approval of the board.

History. Acts 1993, No. 499, § 4; 1997, No. 909, § 1; 2009, No. 491, § 1; 2011, No. 36, § 1.

Amendments. The 2011 amendment subdivided (a) into (a)(1) and (a)(2); rewrote (a)(1); added "Upon review of the proposals, the association" in (a)(2); substituted "association" for "board" in (b)(1); and substituted "submitted by the association shall be subject to approval of the board" for "shall be subject to approval of the board" in (b)(2).

CHAPTER 20

BARBERS

SUBCHAPTER.

2. Barber Law — State Board of Barber Examiners.
4. Barber Schools.

Subchapter 2 — Barber Law — State Board of Barber Examiners

SECTION.

17-20-207. Annual reports.

17-20-207. Annual reports.

The State Board of Barber Examiners shall annually, on or before January 1, make a report to the Governor of all its official acts during the preceding year and of its receipts and disbursements and such recommendations as it may deem expedient.

History. Acts 1937, No. 313, § 16; Pope's Dig., § 12084; Acts 1971, No. 126, § 2; A.S.A. 1947, §§ 71-516, 71-516.1; Acts 2013, No. 501, § 2.

Amendments. The 2013 amendment deleted the (a) designation; and deleted (b).

Subchapter 4 — Barber Schools

SECTION.

17-20-405. Licensing prerequisites — Managers and teachers.
17-20-407. Curriculum.

17-20-405. Licensing prerequisites — Managers and teachers.

(a) No school or college of barbering shall be approved by the State Board of Barber Examiners and no license shall be issued to operate or conduct any school or college of barbering until the following provisions are complied with:

(1) The management and faculty are registered barber teachers under this subchapter;

(2) The teacher must be a high school graduate;

(3) The teacher shall have completed a postgraduate course of six hundred (600) hours in barber teacher theory in an approved school, which school shall regularly offer such a course;

(4) At least one (1) approved teacher is teaching therein at all times and in charge of each daily class in theoretical scientific study, scientific barbering practice, and general barbering practice at all times;

(5) One (1) teacher is provided for every twenty (20) students; and

(6)(A) Every teacher shall pay a teacher license fee of forty dollars ($40.00) per year.

(B) For restoration of an expired license to practice as a teacher, the teacher shall pay a fee of forty-eight dollars ($48.00).

(b) Section 17-20-404(4)-(6) shall not apply to any school or college of barbering which was engaged in the operation or conduct of any such school or college on June 16, 1961.

(c) Any person who has been continuously licensed or registered in another state to practice barbering who also meets the requirements of subdivisions (a)(2) and (3) of this section may be issued a certificate of registration as a registered barber teacher upon making application as required by law and upon payment of a one hundred fifty dollar reciprocity fee to obtain registration in this state as a registered barber, plus a one hundred fifty dollar barber teacher reciprocity fee.

(d) The board may license a secondary educational institution as a school or college of barbering.

(e) The board shall indicate in writing on the license of a school or college of barbering whether the school is licensed as a secondary or postsecondary institution.

History. Acts 1961, No. 109, §§ 5, 8, 12; 1975, No. 538, §§ 3, 4; 1981, No. 103, § 2; 1985, No. 137, § 2; A.S.A. 1947, §§ 71-527, 71-530, 71-534; Acts 1993, No. 1056, § 6; 1997, No. 1032, § 1; 2013, No. 1417, § 1.

Amendments. The 2013 amendment added (d) and (e).

17-20-407. Curriculum.

(a) No school or college of barbering shall be approved by the State Board of Barber Examiners and no license shall be issued to operate or conduct any school or college of barbering until the applicant demonstrates to the board that it is fully qualified to thoroughly educate and instruct students in all subjects necessary and required to qualify them as competent barbers.

(b) No school of barbering shall be approved by the board unless it:

(1) Requires as a prerequisite to admission thereto graduation from an eighth grade school or possession of an equivalent education to be determined by an examination conducted by the board;

(2)(A) Requires as a prerequisite to graduation a course of instruction and practice of not fewer than five hundred fifty (550) hours for licensed cosmetologists, and for all other students not less than one thousand five hundred (1,500) hours of continuous study and practice of not more than eight (8) hours in any one (1) day, five (5) days a week, within a period of not fewer than nine (9) months from the date of enrollment.

(B) The course of instruction shall include the following subjects:

(i) Scientific fundamentals for barbering;

(ii) Physiology;

(iii) Hygiene;

(iv) Elementary chemistry relating to sterilization and antiseptics;

(v) Massaging and manipulating the muscles of the face, neck, and scalp;

(vi) Hair cutting;

(vii) Bobbing;

(viii) Waving;

(ix) Shaving;

(x) Beard trimming; and

(xi) Chemical services.

(c) Each barber college shall:

(1) Conduct a course of study and training which shall consist of not fewer than five hundred fifty (550) hours for students who are licensed cosmetologists, and as to all other students not fewer than one thousand five hundred (1,500) clock hours. The average daily schedule of each student shall consist of the following:

(A) One and one-fourth (1¼) clock hours of theoretical study in a classroom;

(B) One and one-fourth (1¼) clock hours of scientific barber practice in a classroom other than general clinic; and

(C) Five (5) clock hours of general barber practice. Each barber college shall average five and one-half (5½) haircuts or shaves per day per student;

(2) Teach no fewer than one-third (⅓) of its total enrollment scientific barbering practice, theory, or general barber practice at one (1) time;

(3) Submit a daily schedule of its course of study to the board for its approval and post a copy of the approved schedule in its general clinic where it can be easily read by all students; and

(4) Require a maximum attendance in all subjects. No student shall be permitted to spend more than eight (8) hours in the college in any one (1) day.

(d) The board shall promulgate rules that distinguish between a secondary and a postsecondary education curriculum.

History. Acts 1961, No. 109, §§ 3, 8, 12; A.S.A. 1947, §§ 71-525, 71-530, 71-534;

Acts 1989, No. 388, § 11; 2013, No. 1417, § 2.

Amendments. The 2013 amendment added (d).

CHAPTER 22

BOXING, WRESTLING, ETC.

SUBCHAPTER.
1. General Provisions.
2. State Athletic Commission.
3. Licensing.

Subchapter 1 — General Provisions

SECTION.
17-22-101. Definitions.

17-22-101. Definitions.

For purposes of this chapter:

(1) "Amateur" means a person who has never received nor competed for any purse or other compensation in an amount that exceeds the sum established by the State Athletic Commission in its rules for:

(A) Expenses of training; or

(B) Participating in a combative sports contest or exhibition;

(2) "Boxing" means to compete with the fists;

(3)(A) "Combative sports" means boxing, kick boxing, wrestling, martial arts, Muay Thai, or any combination thereof, or any form of hand-to-hand, elbow-and-foot, or foot-and-leg competition in which:

(i) A blow is struck which may reasonably be expected to inflict injury; or

(ii) A surface for fighting is used that may reasonably be expected to inflict injury.

(B) "Combative sports" does not include student training or an exhibition of a student's skill when:

(i) Conducted by a martial arts school or an association of martial arts schools;

(ii) The student's participation is for health and recreational purposes rather than competition;

(iii) The intent is to use only partial contact; and

(iv) The scoring technique is based only on points;

(4) "Commission" means the State Athletic Commission as provided in § 17-22-201;

(5) "Exhibition" means any engagement in which the participants show or display their skills without necessarily striving to win;

(6) "Kick boxing" means any form of boxing in which blows are delivered with the hand and any part of the leg below the hip, including the foot;

(7) "Manager" means any person who directly or indirectly controls or administers the combative sports affairs of any professional participant of the same;

(8) "Martial arts" or "mixed martial arts" means any discipline in which the participants utilize kicks, punches, blows, strikes, or other techniques, including without limitation any form of judo, kung fu, karate, and tae kwon do, ju jitsu, or any combination thereof;

(9) "Match" means any engagement in which the participants show or display their skills while striving in good faith to win;

(10) "Person" means any individual, partnership, corporation, association, or club;

(11) "Professional" means an individual who is eighteen (18) years of age or older and who, as a means of obtaining pecuniary gain:

(A) Competes for money, prizes, or purses in combative sports contests or exhibitions; or

(B) Teaches, instructs, or assists in the practice of professional combative sports;

(12) "Professional wrestling" means an event or form of combat between two (2) or more participants, whether the outcome is predetermined or not, in which a participant:

(A) Delivers or appears to deliver blows to his or her opponent's body;

(B) Executes throws to his or her opponent's body; or

(C) Applies holds to his or her opponent's body;

(13) "Promoter" means any person, club, organization, corporation, or association, and in the case of a corporate promoter includes any officer, director, employee, or stockholder thereof who produces, arranges, or stages any professional boxing, kick boxing, wrestling, or martial arts match or exhibition; and

(14) "Wrestling" means any form of combat between two (2) or more participants in which a participant delivers blows to his or her opponent's body, executes throws to his or her opponent's body, or applies holds to his or her opponent's body.

History. Acts 1999, No. 1085, § 1; 2009, No. 781, § 1; 2013, No. 1096, § 1.

Amendments. The 2013 amendment rewrote (3)(A); added (3)(B)(iv); inserted present (12) and redesignated the remaining subdivisions accordingly.

Subchapter 2 — State Athletic Commission

SECTION.
17-22-201. Creation — Members.
17-22-202. Chair.
17-22-204. Authority.
17-22-206. Combative sports.
17-22-208. Combative sports elimination contests.
17-22-209. Transfer of the State Athletic Commission.

Effective Dates. Acts 2013, No. 482, § 3: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act transfers the Arkansas State Athletic Commission to the Arkansas Department of Health; that to effectively administer this act the transition should occur at the beginning of the next fiscal year; and that the effectiveness of this act on July 1, 2013, is essential to the operation of the agencies. Therefore, an

emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

17-22-201. Creation — Members.

(a) A State Athletic Commission is created, which shall consist of seven (7) members who shall be at least twenty-five (25) years of age.

(b)(1) Members shall be appointed by the Governor for a term of two (2) years.

(2) One (1) of the members of the commission shall be a member of the state executive committee of any patriotic organizations chartered by authority of a special act of the Congress of the United States.

(3) One (1) member shall be a representative of the field of physical education.

(4) One (1) member shall be a representative of the field of sports promotion.

(5) One (1) member shall be a consumer representative.

(6) Two (2) members may be citizens at large but shall have experience with combative sports.

(7) One (1) member shall be a representative of the field of medicine and have experience with combative sports.

(8)(A) Furthermore, one (1) of the seven (7) members of the commission shall be a member of a minority race.

(B) One (1) of the seven (7) members shall be a senior citizen.

(C) Four (4) of the seven (7) members shall have experience with combative sports.

(c) The members of the commission shall serve without pay except for a stipend provided for by Arkansas law.

(d) The members of the commission shall have authority to promulgate such rules and regulations as are necessary for the operation and enforcement of this chapter and not in conflict with this chapter.

(e) The members of the commission may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) When any member of the commission shall cease to be a member of the state executive committee of any such patriotic organization as herein mentioned, his or her commission as a member of the commission shall automatically expire. The Governor shall appoint a successor, whose qualifications shall be as prescribed in this section.

History. Acts 1927, No. 131, §§ 2, 3; Pope's Dig., § 12062; Acts 1985, No. 970, § 2; A.S.A. 1947, §§ 84-2903, 84-2904; Acts 1991, No. 1188, § 1; 1997, No. 250, § 130; 2009, No. 781, § 2; 2013, No. 1096, § 2.

A.C.R.C. Notes. Acts 2013, No. 482, § 1, provided: "Effective July 1, 2013, the Arkansas State Athletic Commission established by Arkansas Code 17-22-201 is transferred as a Type 1 transfer under Arkansas Code 25-2-104 to the Arkansas Department of Health."

Amendments. The 2013 amendment, in (b)(2), substituted "One (1)" for "Two (2)" and "a member" for "members"; substituted "Two" for "The remaining two" in (b)(6); added present (b)(7) and redesig-

nated former (b)(7) as (b)(8); and added "except for a stipend provided for by Arkansas law" in (c).

17-22-202. Chair.

The State Athletic Commission shall elect one (1) of its members as chair and one (1) of its members as vice chair.

History. Acts 1927, No. 131, § 3; Pope's Dig., § 12063; A.S.A. 1947, § 84-2904; Acts 2013, No. 1096, § 3.

Amendments. The 2013 amendment added "and one (1) of its members as vice chair."

17-22-204. Authority.

(a)(1)(A) The State Athletic Commission shall have the sole discretion, management, control, and jurisdiction over all combative sports matches and exhibitions in this state.

(B) The commission shall adopt uniform policies, fees, and forms to ensure fair regulation of the combative sports industry.

(2) A combative sports match and exhibition declared to be amateur and self-regulated shall be governed by the commission unless sanctioned by:

(A) A federally recognized sanctioning body approved in writing by the commission; and

(B) A national oversight body with 501(c)(3) status under the Internal Revenue Code operating in at least six (6) states approved in writing by the commission.

(b)(1) The commission shall have the authority to appoint and pay inspectors and other officials necessary to properly conduct any match or exhibition authorized by this chapter.

(2) The inspectors and other officials may receive reimbursement for travel under § 25-16-901 et seq.

(c) The commission shall have the authority to adopt and promulgate, amend, or abrogate any and all rules and regulations considered by it necessary or expedient for the performance of its functions as provided in this chapter and in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) The commission may issue subpoenas, examine witnesses, and administer oaths and shall, at its discretion, investigate allegations or practices violating the provisions of this chapter.

(e) The commission shall have the authority to hire an investigator for the purposes outlined in this section.

(f) The commission shall have the authority to require event permits and insurance for combative sports with limits to be adjusted by the rules and regulations of the commission.

(g) The commission shall have the authority to make a claim on the bond or check posted by a promoter for combative sports events in order to make reimbursements for any unpaid fees, prize money, or other financial commitments of the promoter related to combative sports activity licensed by the commission.

(h) The commission shall have the authority to specify the forms required under this chapter.

History. Acts 1927, No. 131, § 3; Pope's Dig., § 12063; Acts 1985, No. 970, § 2; A.S.A. 1947, § 84-2904; Acts 1993, No. 1277, § 1; 1999, No. 1085, § 2; 2009, No. 781, § 3; 2013, No. 1096, § 4.

Amendments. The 2013 amendment added the (a)(1)(A) designation and added (a)(1)(B); rewrote (a)(2); added the (b)(1) designation and inserted "and pay" preceding "inspectors" in (b)(1), and added (b)(2); inserted "event permits and" preceding "insurance" in (f); and added (h).

17-22-206. Combative sports.

The General Assembly finds and declares to be the public policy of this state that it is in the best interest of the public and combative sports that combative sports be subject to an effective and efficient system of strict control and regulation in order to protect the safety and well-being of the participants in combative sports matches and exhibitions and to promote the public confidence in the regulatory process and the conduct of combative sports matches and exhibitions. To further such public confidence and trust, the State Athletic Commission shall have the authority to adopt and promulgate, amend, or abrogate any and all rules and regulations concerning combative sports, to recover inspector and investigator fees, and recover the actual cost of the national and federal fighter database fees charged to the commission.

History. Acts 1999, No. 1085, § 3; 2009, No. 781, § 4; 2013, No. 1096, § 5.

Amendments. The 2013 amendment added "to recover inspector and investigator fees, and recover the actual cost of the national and federal fighter database fees charged to the commission" in the last sentence.

17-22-208. Combative sports elimination contests.

(a) This chapter applies to combative sports elimination contests in which:

(1) The contestants compete for prizes only in combative sports elimination contests and are not:

(A) Professional boxers licensed through the Professional Boxing Safety Act of 1996, 15 U.S.C. § 6301 et seq., competing in four (4) or more rounds of non-elimination boxing; or

(B) Professional mixed martial arts or any other professional form of combative sports discipline combatants;

(2) Each bout is scheduled to consist of three (3) or fewer one-minute rounds with combative sports elimination contests conducted on no more than two (2) consecutive calendar days;

(3) Contestants are prohibited from competing for more than twelve (12) minutes on each combative sports elimination contest day and are prohibited from being scheduled for more than twelve (12) minutes over the two-day period;

(4) The contestants participating in the combative sports elimination contest are to be insured by the promoter for not less than ten thousand dollars ($10,000) for medical and hospital expenses to be paid to the

contestants to cover injuries sustained in the combative sports elimination contest and for not less than ten thousand dollars ($10,000) to be paid in accordance with the statutes of descent and distribution of personal property if a contestant dies as a result of injuries sustained in the combative sports elimination contest;

(5) A licensed physician is in attendance at ringside, and the physician has authority to stop the combative sports elimination contest for medical reasons;

(6) All contestants pass a physical examination using the State Athletic Commission's form given by a licensed physician before the combative sports elimination contest;

(7) A preliminary breath test is administered to each contestant that indicates a blood alcohol content of two-tenths of one percent (0.2%) or less; and

(8) The promoter conducts the combative sports elimination contest in compliance with the following:

(A) A contestant who has lost by a technical knockout is not permitted to compete again for a period of thirty (30) calendar days or until the contestant has submitted to the promoter the results of a physical examination equivalent to that required of professional boxers or professional mixed martial arts combatants;

(B)(i) The ringside physician examines a contestant who has been knocked out in a combative sports elimination contest or whose fight has been stopped by the referee because the contestant received hard blows to the head that made the contestant defenseless or incapable of continuing immediately after the knockout or stoppage.

(ii) The ringside physician may recommend post-fight neurological examinations, which may include computerized axial tomography scans or magnetic resonance imaging, to be performed on the contestant immediately after the contestant leaves the location of the combative sports elimination contest.

(iii) The promoter shall not permit the contestant to compete until a physician has certified that the contestant is fit to compete.

(iv) If the physician recommends further neurological examinations, the promoter shall not permit the contestant to compete until the promoter receives copies of examination reports demonstrating that the contestant is fit to compete;

(C)(i) The promoter shall require that a contestant who has sustained a severe injury or knockout in a combative sports elimination contest be examined by a physician.

(ii) The promoter shall not permit the contestant to compete until the physician has certified that the contestant has fully recovered;

(D) The promoter shall not permit a contestant to compete in a combative sports elimination contest for a period of not less than sixty (60) days if the contestant has been knocked out or has received excessive hard blows to the head that required the fight to be stopped;

(E) A contestant who has been knocked out twice in a period of three (3) months or who has had excessive head blows causing a fight

to be stopped shall not be permitted by a promoter to participate in a combative sports elimination contest for a period of not less than one hundred twenty (120) days after the second knockout or stoppage;

(F) A contestant who has been knocked out or had excessive hard blows to the head causing a fight to be stopped three (3) times consecutively in a period of twelve (12) months shall not be permitted by a promoter to participate in a combative sports elimination contest for a period of one (1) year after the third knockout; and

(G) Before resuming competition after any of the periods of rest prescribed in subdivisions (a)(8)(D) — (F) of this section, a promoter shall require the contestant to produce a certification by a physician stating that the contestant is fit to take part in a combative sports elimination contest.

(b) As part of the physical examination given before the combative sports elimination contest, the licensed physician or other trained person shall administer a preliminary breath test in compliance with standards imposed in rules promulgated by the Department of Arkansas State Police regarding equipment calibration and methods of administration.

(c)(1) The promoter shall keep a log of preliminary breath test results of contestants on file at its place of business for at least three (3) years after the date of administration of the test.

(2) These results shall be made available to law enforcement officials upon request.

(d) A combative sports elimination contest held under subsection (a) of this section is not considered to be in violation of the law.

(e) Any person violating the provisions of this section shall be guilty of a Class A misdemeanor and shall be subject to a fine not to exceed one thousand dollars ($1,000).

History. Acts 2001, No. 631, § 1; 2009, No. 781, § 6; 2013, No. 1096, § 6.

Amendments. The 2013 amendment inserted "or any other professional form of combative sports discipline" in (a)(1)(B); added "and are prohibited from being scheduled for more than twelve (12) minutes over the two-day period" in (a)(3); substituted "ten thousand dollars ($10,000)" for "five thousand dollars ($5,000)" in two places in (a)(4); and inserted "using the State Athletic Commission's form" in (a)(6).

17-22-209. Transfer of the State Athletic Commission.

(a)(1) Effective July 1, 2013, the State Athletic Commission is transferred to the Department of Health and shall be administered by the Director of the Department of Health.

(2) All authority, powers, duties, functions, records, authorized positions, property, unexpended balances of appropriations, allocations, or other funds of the commission are transferred to the department.

(b) In order to protect the commission, to allow for continuation of necessary procedures, and to provide for a smooth transition to the department, the director may not realign the functions and records of the commission before July 1, 2014.

History. Acts 2013, No. 482, § 2.

A.C.R.C. Notes. Acts 2013, No. 482, § 1, provided: "Effective July 1, 2013, the Arkansas State Athletic Commission established by Arkansas Code 17-22-201 is transferred as a Type 1 transfer under Arkansas Code 25-2-104 to the Arkansas Department of Health."

Subchapter 3 — Licensing

SECTION.
17-22-302. Issuance of licenses — Fees.
17-22-303. License required — Penalty for unlicensed activity.
17-22-304. Bond required.
17-22-306. Fees.

A.C.R.C. Notes. Acts 2013, No. 1096, § 11, provided: "A referee or judge who is licensed by the State Athletic Commission on the effective date of this act shall have until January 1, 2014, to obtain the certification under § 17-22-302(f). The referee or judge to whom this section applies shall not be denied renewal of his or her license or have his or her license revoked for failure to obtain certification before January 1, 2014."

17-22-302. Issuance of licenses — Fees.

(a) The State Athletic Commission shall have the authority to appoint and issue annual licenses to the following persons with regard to participation in combative sports in this state:

(1) A person engaging in combative sports;

(2) A promoter of a combative sports match or exhibition;

(3) A manager;

(4) A matchmaker;

(5) A referee;

(6) A judge;

(7) A physician;

(8) A timekeeper; and

(9) A person arranging, participating in, or otherwise involved with matches and exhibitions as provided in § 17-22-301(a).

(b) The State Athletic Commission shall have the authority to refuse to issue a license to any person or organization that has been sanctioned in any way by any comparable licensing body of another state.

(c)(1) The State Athletic Commission shall not license a person who at the time of application is a registered sex offender designated as Level 2 or higher on the Arkansas Sex Offender Registry.

(2) A person's status as a registered sex offender is good cause for the revocation of the person's license previously issued by the commission.

(d) Fees for the licenses shall be established by the State Athletic Commission.

(e) All licenses as provided in this section shall expire annually on June 30.

(f)(1) A referee or judge for professional events shall attend courses given by and obtain certification from the Association of Boxing Commissions for the referee or judge's discipline.

(2) A referee or judge may take the courses provided by the Association of Boxing Commissions anywhere in the United States if documentation of training and certification is provided upon application for a license.

(g) The State Athletic Commission may set an event permit processing fee not to exceed fifty dollars ($50.00).

History. Acts 1927, No. 131, § 4; 1929, No. 27, § 1; Pope's Dig., § 12064; Acts 1965, No. 463, § 2; 1985, No. 970, § 3; A.S.A. 1947, §§ 84-2905, 84-2912; Acts 1987, No. 659, § 3; 1989, No. 596, § 2; 1993, No. 1277, § 2; 1999, No. 1085, § 5; 2009, No. 781, § 7; 2013, No. 1096, § 7.

Amendments. The 2013 amendment rewrote the section.

17-22-303. License required — Penalty for unlicensed activity.

(a) No person shall participate in or engage in the promotion of a combative sports match or exhibition in this state without first having obtained a license from the State Athletic Commission.

(b) No person shall participate in a combative sports match or exhibition in this state as a manager, matchmaker, referee, judge, physician, or timekeeper, without first having obtained a license from the commission.

(c) Any person mentioned in subsection (a) or (b) of this section who does not first obtain a license from the commission before participating in a combative sports match or exhibition shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500).

(d) A venue, entity, or person who knowingly assists in making an unlicensed combative sports match or exhibition occur shall be subject to the penalties under subsection (c) of this section.

History. Acts 1927, No. 131, § 8; 1929, No. 27, § 1; Pope's Dig., § 12068; A.S.A. 1947, §§ 84-2901, 84-2909; Acts 1993, No. 1277, § 3; 1999, No. 1085, § 6; 2009, No. 781, § 7; 2013, No. 1096, § 8.

Amendments. The 2013 amendment inserted "in this state" following "exhibition" in (b).

17-22-304. Bond required.

(a) As a condition to the issuance of a license as provided in § 17-22-302, the person applying for the license shall file with the State Athletic Commission a cashier's check, an acceptable letter of credit, or a corporate surety bond in an amount to be established by the commission in its rules, but not less than the sum of two thousand dollars ($2,000) written by a corporate surety authorized to do business in this state, conditioned upon the licensee's payment of all taxes and

other charges due the state and its political subdivisions on account of such matches or exhibitions.

(b) The surety under this section shall be written or held by the commission for at least six (6) months.

History. Acts 1961, No. 450, § 1; A.S.A. 1947, § 84-2910; Acts 1999, No. 1085, § 7; 2009, No. 781, § 7; 2013, No. 1096, § 9.

Amendments. The 2013 amendment added the (a) designation; in (a), substituted "an acceptable" for "a" preceding "letter of credit" and substituted "two thousand dollars ($2,000)" for "one thousand dollars ($1,000)"; and added (b).

17-22-306. Fees.

(a)(1) Within five (5) business days after a combative sports match or exhibition, the licensed manager, promoter, or person responsible for the match or exhibition shall furnish to the State Athletic Commission a written report under the penalty of perjury on a form that shall be provided by the commission showing the number of tickets that were issued or sold and the gross receipts therefor without any deductions whatsoever.

(2)(A) The person shall also pay to the commission at the same time a five percent (5%) fee of the total gross receipts received from admission charges for each exhibition held under the authority of this chapter.

(B) The five percent (5%) shall be computed using gross gate receipts, unless the venue collects and remits sales tax for the promoter.

(C) If the venue collects and remits sales tax for the promoter, the five percent (5%) shall be computed on the net gate receipts after sales tax.

(D)(i) If a promoter allows admission to a match or exhibition in return for a payment other than the cash purchase of tickets, the commission shall:

(a) Determine the method to be used to calculate the five-percent value of the gate receipts; or

(b) Set a reasonable price per person to be paid by the promoter to the commission.

(ii) If the promoter requests a decision from the commission regarding the payment under this section before the match or exhibition, the commission shall make the determination and notify the promoter of the determination before the match or exhibition.

(3)(A) The promoter shall pay the cost of an event inspector or investigator present at the event.

(B) The cost of the event inspector or investigator shall not exceed one hundred twenty-five dollars ($125) per day for each inspector or investigator.

(C) The commission shall:

(i) Determine if there is a need to appoint an inspector or investigator at an event;

(ii) Determine the number of inspectors or investigators to be appointed for the event; and

(iii) Notify the promoter in writing before the event of:

(a) The number of inspectors or investigators to be appointed;

(b) The cost of the inspectors or investigators; and

(c) The reasons for the appointment.

(b)(1)(A) The commission may designate a representative to be present and to observe the computation of the number of tickets issued or sold and the determination of the gross receipts.

(B) All events shall utilize tickets for admission.

(2)(A) When the tickets are sold through an electronic ticket system, the commission may accept a computerized certification of tickets sold and a statement from the venue.

(B) The statement from the venue shall be signed by an arena representative and the promoter.

History. Acts 1987, No. 659, § 5; 1999, No. 1085, § 9; 2001, No. 536, § 1; 2009, No. 781, § 7; 2013, No. 1096, § 10.

Amendments. The 2013 amendment added (a)(2)(D) and (a)(3); and added the (b)(1)(A) designation and added (b)(1)(B).

CHAPTER 23

BUYERS OF PRECIOUS METALS

SUBCHAPTER.

1. General Provisions.
2. Licensing.

Subchapter 1 — General Provisions

SECTION.
17-23-101. Definitions.
17-23-102. Exemptions.
17-23-103. Penalties.

17-23-101. Definitions.

As used in this chapter:

(1)(A) "Dealer" means a person, corporation, partnership, or other entity that engages in the business of purchasing precious metals or precious items, or both, for the purpose of reselling the items in any form.

(B) "Dealer" does not include a person, corporation, partnership, or other entity engaged in a business that is exempted under § 17-23-102;

(2) "Permanent place of business" means a fixed premises either owned by a person or leased by a person for a period of at least one (1) year and located in the State of Arkansas;

(3) "Person" means any individual, partnership, corporation, association, or other business entity;

(4) "Precious items" means precious or semiprecious stones or pearls whether mounted or unmounted;

(5) "Precious metals" means an article made, in whole or in part, of gold, silver, platinum, or a combination of gold, silver, or platinum;

(6) "Purchase" means the acquisition of a precious metal or a precious item, or both, for a consideration of cash, goods, or other precious metals or precious items; and

(7) "Silver" means sterling silver.

History. Acts 1981, No. 87, § 1; 1981, No. 541, § 1; A.S.A. 1947, § 71-5401; Acts 2011, No. 1037, § 1; 2013, No. 1213, § 1.

Amendments. The 2011 amendment deleted "unless the context otherwise requires" following "chapter" in the introductory paragraph; added (1) and (2); redesignated former (1) as (3); added (4) through (6); and redesignated former (2) as (7).

The 2013 amendment rewrote (2).

17-23-102. Exemptions.

The provisions of this chapter shall not apply to the following:

(1) Transactions involving the sale or transfer of precious metals by a wholesale jeweler to a retail jeweler or licensed dealer;

(2) Transactions involving coins regardless of whether or not such coins contain precious metals;

(3) Any financial institution which is covered by federal or state deposit insurance;

(4) Any person doing business under the laws of this state or the United States relating to any broker-dealer or commodity futures commission merchant or commodity trading advisor or agent duly registered and regulated by the State Securities Department or the United States Commodity Futures Trading Commission; or

(5) Pawn brokers.

History. Acts 1981, No. 87, § 1; 1981, No. 541, § 1; A.S.A. 1947, § 71-5401; Acts 1991, No. 729, § 1; 2011, No. 1037, § 2.

Amendments. The 2011 amendment deleted former (1); redesignated former (2) as present (1); deleted former (3); redesignated former (4) through (7) as present (2) through (5); and deleted "or any person doing business under the laws of this state" following "insurance" in present (3).

17-23-103. Penalties.

(a) If the value of the property involved in a transaction is five hundred dollars ($500) or less, a person who violates this chapter is guilty of a Class A misdemeanor.

(b) If the value of the property involved in a transaction is greater than five hundred dollars ($500), a person who violates this chapter is guilty of a Class D felony.

History. Acts 1981, No. 87, § 7; A.S.A. 1947, § 71-5407; Acts 2013, No. 1213, § 2.

Amendments. The 2013 amendment rewrote the section.

Subchapter 2 — Licensing

SECTION.
17-23-201. Registration required.
17-23-202. Registration.
17-23-203. Seller identification.
17-23-206. Records.
17-23-207. Holding periods.
17-23-208. [Repealed.]

17-23-201. Registration required.

(a) A person shall not engage in the business of purchasing precious metals or precious items from the general public for the purpose of reselling the precious metals or precious items in any condition without first registering with the local law enforcement agency in the jurisdiction as provided under this section and in the manner provided under § 17-23-202.

(b) If the person has a permanent place of business in the State of Arkansas and the transaction is being conducted at the person's permanent place of business, the person shall register with the local law enforcement agency in the jurisdiction of the permanent place of business.

(c) A person shall register with the local law enforcement agency in the jurisdiction where the transaction occurs if the person:

(1) Has a permanent place of business in the State of Arkansas and the transaction is being conducted from a location that is different from the person's permanent place of business; or

(2) Is a nonresident that enters into an association or partnership with a person that is required to register with the local law enforcement agency having jurisdiction under subdivision (c)(1) of this section.

History. Acts 1981, No. 87, § 1; 1981, No. 541, § 1; A.S.A. 1947, § 71-5401; Acts 1991, No. 729, § 2; 2011, No. 1037, § 3; 2013, No. 1213, § 3.

Amendments. The 2011 amendment substituted "Registration" for "License" in the section heading; and rewrote the section.

The 2013 amendment added the (a) designation; substituted "as provided under this ... provided under § 17-23-202" for "which the business or the seller is located" in present (a); and added (b) and (c).

17-23-202. Registration.

(a)(1) A dealer shall register with local law enforcement in writing and on the form prescribed by the local law enforcement agency at least twenty-four (24) hours before conducting business in that jurisdiction.

(2) The registration shall include:

(A)(i) The name of the registrant.

(ii) If the registrant is a partnership or association, the name of each member of the partnership or association.

(iii) If the registrant is a corporation, the name of each officer and director and of the principal owner or owners of the issued and outstanding capital stock in the corporation;

(B) The residence and business address for each person listed under subdivision (a)(2)(A) of this section;

(C) The city or town with the street and number where the business is to be conducted;

(D) A statement that the registrant has:

(i) A bona fide established permanent place of business used primarily for the purchase of precious metals and precious items; and

(ii) A telephone number listed in the name of the business; and

(E) The name, address, and telephone number of the registered agent for service of process as provided under the Model Registered Agents Act, § 4-20-101 et seq., in the event of the commencement of any legal action in any court against the registrant.

(b) A nonresident applicant shall provide the principal place of business without the state and additional information as the local law enforcement agency in the jurisdiction in which the business or the seller is conducting business may require for the administration of its duties under this chapter to include without limitation:

(1) Photographs of each item purchased;

(2) Seller identification, including the same proof and limitations under § 17-23-203;

(3) Disclosures, including the same disclosures required under § 17-23-205;

(4) Records, including the same records required under § 17-23-206; and

(5) Holding periods, including the same holding periods under § 17-23-207.

History. Acts 1981, No. 87, § 2; 1983, No. 374, § 1; A.S.A. 1947, § 71-5402; Acts 2011, No. 1037, § 4; 2013, No. 1162, § 1; 2013, No. 1213, § 4.

Amendments. The 2011 amendment rewrote the section.

The 2013 amendment by No. 1162 substituted "local law enforcement agency" for "department" in (b).

The 2013 amendment by No. 1213 substituted "before conducting" for "prior to conducting" in (a)(1); substituted "registered agent for ... Agents Act, § 4-20-101 et seq.," for "person designated to receive legal process" in (a)(2)(E); and rewrote (b).

17-23-203. Seller identification.

(a) A dealer required to register under this chapter shall require the following from each seller of precious metals or precious items:

(1) Proof of identification in the form of a valid driver's license, identification card, armed services identification card, or other valid photo identification;

(2) A signed statement stating that the seller is the legal owner of the property or is the agent of the owner authorized to sell the property, and when and where or in what manner the property was obtained; and

(3) A legible print of his or her right thumb as an identifying mark on the form.

(b)(1) A dealer shall not purchase precious metals or precious items from a person under eighteen (18) years of age unless the person is accompanied by a parent or guardian who provides identification that establishes that relationship.

(2) Both the person under eighteen (18) years of age and the parent or guardian shall submit the identification required under subdivision (a)(1) of this section, and records of the identification of both shall be maintained as provided under § 17-23-206.

History. Acts 1981, No. 87, § 3; 1983, No. 374, § 2; A.S.A. 1947, § 71-5403; Acts 2011, No. 1037, § 5.

Amendments. The 2011 amendment rewrote the section.

17-23-206. Records.

(a) Every person registered under this chapter shall keep a record book containing a comprehensive record of all transactions concerning precious metals or precious items.

(b) The record shall include:

(1) The name, address, and telephone number of the seller;

(2) The date of birth of the seller;

(3) The signature of the seller;

(4) A description of the seller, including height, weight, race, complexion, and hair color;

(5) The driver's license, identification card, or other photo identification number provided under § 17-23-203(a)(1) and the jurisdiction of issuance; and

(6) A complete and accurate description of the property purchased, including any serial numbers or other identifying marks or symbols and the date and hour of the transaction.

(c) All persons registered under this chapter shall at least weekly deliver or mail to the chief law enforcement officer of the city or town or the sheriff of the county in which the business is located a written or electronic copy of all entries in the record required to be kept by subsections (a) and (b) of this section during the preceding seven-day period.

(d) All records and reports received by the chief law enforcement officer of the city or town or sheriff of the county shall be available for inspection only by law enforcement officers for law enforcement purposes.

History. Acts 1981, No. 87, §§ 4, 5; 1981, No. 541, §§ 2, 3; 1983, No. 374, § 3; A.S.A. 1947, §§ 71-5404, 71-5405; Acts 2011, No. 1037, § 6.

Amendments. The 2011 amendment, in (a), substituted "registered" for "licensed," deleted "obtained from or under the direction of the Department of Arkansas State Police" following "record book," and substituted "or precious items" for "involving an amount in excess of fifty dollars ($50.00)"; rewrote (b); and, in (c), substituted "registered" for "licensed" and inserted "written or electronic."

17-23-207. Holding periods.

(a) All persons registered under this chapter shall retain possession of precious metals or precious items in an unaltered condition for fifteen (15) business days after delivering the list to the chief law enforcement officer of the city or town or sheriff of the county as required under § 17-23-206.

(b) If the chief law enforcement officer of the city or town or sheriff of the county or the prosecuting attorney has probable cause to believe that precious metals or precious items have been stolen, he or she may give notice to the registrant to retain the precious metal or precious item for a specific period of time.

History. Acts 1981, No. 87, § 5; 1981, No. 541, § 3; A.S.A. 1947, § 71-5405; Acts 2011, No. 1037, § 7.

Amendments. The 2011 amendment rewrote the section.

17-23-208. [Repealed.]

Publisher's Notes. This section, concerning disposition of funds, was repealed by Acts 2013, No. 1213, § 5. The section was derived from Acts 1981, No. 87, § 8; A.S.A. 1947, § 71-5408.

CHAPTER 24

COLLECTION AGENCIES

SUBCHAPTER.
3. Licensing.

Subchapter 3 — Licensing

SECTION.
17-24-305. Fees — Disposition.
17-24-306. Bond.

Effective Dates. Acts 2011, No. 764, § 9: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2011 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2011 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2011."

Acts 2013, No. 1023, § 9: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2013 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the

event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2013 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2013."

17-24-305. Fees — Disposition.

(a) The State Board of Collection Agencies may charge an annual license fee not to exceed one hundred twenty-five dollars ($125) for licensing each collection agency and an annual fee of twenty dollars ($20.00) effective September 1, 2013, for registering each employee of the licensed collection agency who as an employee solicits, collects, or attempts to collect any delinquent account or accounts by telephone, mail, personal contact, or otherwise.

(b) All income from fees imposed under this section shall be distributed as follows:

(1) Beginning July 1, 2013, and each fiscal year thereafter, the State Board of Collection Agencies shall remit to each entity in subdivisions (b)(2)-(7) one (1) annual payment. Distributions shall be funded in the percentage of the total funds available up to the maximum authorized: If less than one hundred percent (100%) of the total allocation is available for distribution, all allocations listed in (b)(2)-(7) shall be funded at a prorated percentage consistent with the available funds. At no time shall the total distribution exceed the maximum amounts as listed in (b)(2)-(7);

(2) An amount not to exceed one hundred fifteen thousand dollars ($115,000) to the Treasurer of State for the Division of Medical Services of the Department of Human Services for deposit into a paying account as determined by the Chief Fiscal Officer of the State to be used in accordance with § 20-10-705;

(3)(A) An amount not to exceed six hundred thousand dollars ($600,000) to the University of Arkansas for Medical Sciences for deposit into a financial institution in accordance with the policies of the University of Arkansas.

(B) The funds shall be expended for the College of Pharmacy and the College of Nursing in accordance with § 6-64-417;

(4)(A) An amount not to exceed two hundred fifty thousand dollars ($250,000) to Arkansas State University — Mountain Home for deposit into the Arkansas State University — Mountain Home Fund.

(B) The funds shall be expended exclusively for the Arkansas State University — Mountain Home Practical Nursing Program;

(5)(A) An amount not to exceed one hundred thousand dollars ($100,000) to the University of Central Arkansas for deposit into the University of Central Arkansas Fund.

(B) The funds shall be expended exclusively for the University of Central Arkansas Department of Nursing;

(6)(A) An amount not to exceed one hundred thousand dollars ($100,000) to Southern Arkansas University for deposit into the Southern Arkansas University Fund.

(B) The funds shall be expended exclusively for personal services and operating expenses of the Southern Arkansas University system; and

(7) An amount not to exceed one hundred thousand dollars ($100,000) to Henderson State University for deposit into the Henderson State University Fund.

(c) Funds remaining after the distributions in subdivisions (b)(2)-(7) of this section shall be deposited into the State Board of Collection Agencies account in some bank authorized to do business in this state.

History. Acts 1965, No. 145, § 7; 1979, No. 86, § 1; 1985, No. 830, § 1; A.S.A. 1947, § 71-2007; Acts 1999, No. 1500, § 1; 2005, No. 2268, § 7; 2007, No. 1217, § 7; 2009, No. 1413, § 4; 2009, No. 1455, § 8; 2010, No. 281, § 4; 2011, No. 764, § 5; 2013, No. 1023, § 4.

Amendments. The 2011 amendment inserted present (b)(1)(F) and redesignated the following subdivision accordingly.

The 2013 amendment substituted "twenty dollars ($20) effective September 1, 2013," for "fifteen dollars ($15.00)" in (a); and rewrote (b).

17-24-306. Bond.

(a) The State Board of Collection Agencies shall require each licensee to secure a surety bond in an amount not less than ten thousand dollars ($10,000) nor more than fifty thousand dollars ($50,000) for each location, with the security on the bond to be approved by the board.

(b) The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the amount of the bond. The surety shall have a right to cancel such bond upon giving thirty (30) days' notice to the board and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

(c) The bond shall be made payable to the State Board of Collection Agencies.

(d) The board may promulgate rules to:

(1) Disburse bond funds to claimants;

(2) If the bond proceeds are insufficient to satisfy all legitimate claims, distribute the funds pro rata among the claimants; or

(3) In the discretion of the board, require the sureties to deal directly with the claimants.

History. Acts 1965, No. 145, § 6; 1979, No. 179, § 1; A.S.A. 1947, § 71-2006; Acts 1989, No. 792, § 1; 1991, No. 126, § 4; 1999, No. 1500, § 2; 2009, No. 1455, § 9; 2013, No. 1023, § 5.

Amendments. The 2013 amendment, in (a), substituted "ten thousand dollars ($10,000)" for "five thousand dollars ($5,000)" and "fifty thousand dollars ($50,000)" for "twenty-five thousand dollars ($25,000)."

CHAPTER 25
CONTRACTORS

SUBCHAPTER.
3. Licensing.
5. Residential Building Contractors Committee.

Subchapter 1 — General Provisions

17-25-101. Definition.

CASE NOTES

Contractor.

Appellant excavating company fell under the definition of "contractor" as set forth in subdivision (a)(1) of this section, because the work described in the contracts at issue -- demolition, fill work, cut work, excavation -- was encompassed by at least one of the categories of the statute listed as construction, erection, alteration, demolition, or repair. Thus, § 17-25-103(d) was applicable and appellant was barred from enforcing the contracts because appellant did not have a valid Arkansas contractor's license when it entered into the contracts. J & J Excavating v. Doyne Constr. Co., 2012 Ark. App. 142, — S.W.3d — (2012).

Summary judgment dismissal of the contractor's suit was proper, because the contractor's construction of a natural-gas pipeline wherein space was leased fell squarely within the ambit of the statutory definition of contractor in subdivision (a)(1) of this section, and § 17-25-103(d) did not violate Ark. Const. Art. II, § 13, when the statute did not abrogate the right of all contractors to bring suit, but denied that right only to those contractors who did not possess a license; as designed to protect the public, the statute advanced the goal of providing an incentive for contractors to undergo the licensing process to ensure that the standards set by the licensing board were satisfied. Cent. Okla. Pipeline, Inc. v. Hawk Field Servs., LLC, 2012 Ark. 157, 400 S.W.3d 701 (2012).

Cited: Forever Green Ath. Fields, Inc. v. Lasiter Constr., Inc., 2011 Ark. App. 347, — S.W.3d — (2011).

17-25-103. Penalties — Enforcement.

CASE NOTES

Analysis

Applicability.
Right to Sue.

Applicability.

Arkansas Contractor's Licensing Law did not bar appellee's counterclaim against a supplier for breach of contract, as appellee had a valid contractor's license, and it was not attempting to do any of the activities prohibited by subdivisions (a)(2) through (a)(5) of this section. Forever Green Ath. Fields, Inc. v. Lasiter Constr., Inc., 2011 Ark. App. 347, — S.W.3d — (2011).

Appellant excavating company fell under the definition of "contractor" as set forth in § 17-25-101(a)(1), because the work described in the contracts at issue -- demolition, fill work, cut work, excavation -- was encompassed by at least one of the categories of the statute listed as construction, erection, alteration, demolition, or repair. Thus, subsection (d) of this section was applicable and appellant was barred from enforcing the contracts because appellant did not have a valid Arkansas contractor's license when it entered into the contracts. J & J Excavating v. Doyne Constr. Co., 2012 Ark. App. 142, — S.W.3d — (2012).

Right to Sue.

Summary judgment dismissal of the contractor's suit was proper, because the contractor's construction of a natural-gas pipeline wherein space was leased fell squarely within the ambit of the statutory definition of contractor in § 17-25-101(a)(1), and subsection (d) of this section did not violate Ark. Const. Art. II, § 13, when the statute did not abrogate the right of all contractors to bring suit, but denied that right only to those contractors who did not possess a license; as designed to protect the public, the statute advanced the goal of providing an incentive for contractors to undergo the licensing process to ensure that the standards set by the licensing board were satisfied. Cent. Okla. Pipeline, Inc. v. Hawk Field Servs., LLC, 2012 Ark. 157, 400 S.W.3d 701 (2012).

Subchapter 3 — Licensing

SECTION.

17-25-304. Financial statement.

17-25-304. Financial statement.

(a) All persons and entities required by this chapter to be licensed by the Contractors Licensing Board shall transmit to the board with their original and renewal applications a financial statement of the applicant reviewed by a certified public accountant or registered public accountant according to American Institute of Certified Public Accountants' Professional Standards.

(b)(1) The financial statement shall not be made public information and shall not be made available for inspection by any person, except pursuant to an order of a court of competent jurisdiction.

(2) After the contractor is licensed, the board has the option of:

(A) Destroying the financial statement by the process of shredding; or

(B) Returning the financial statement to the contractor.

History. Acts 1981, No. 275, § 1; A.S.A. 1947, § 71-708.1; Acts 1997, No. 378, § 1; 2011, No. 4, § 1.

Amendments. The 2011 amendment rewrote (a); subdivided (b); and deleted "so furnished" following "The financial statement" in (b)(1).

17-25-313. License requirements to accompany invitation to bid.

CASE NOTES

No Private Right of Action.

Summary judgment dismissal of the contractor's suit was proper, because the contractor's construction of a natural-gas pipeline wherein space was leased fell squarely within the ambit of the statutory definition of contractor in § 17-25-101(a)(1), and § 17-25-103(d) did not violate Ark. Const. Art. II, § 13, when the statute did not abrogate the right of all contractors to bring suit, but denied that right only to those contractors who did not possess a license; to hold that a contractor could collect from an architect or engineer compensation that it could not otherwise recover would circumvent the clear intent of the statutory bar, thus, the Arkansas Supreme Court discerned no legislative intent for a private cause of action to arise under this section, and since there was no private right of action, it followed that a party could not be held vicariously liable

for an alleged failure of its employees to give notice under the statute. Cent. Okla. Pipeline, Inc. v. Hawk Field Servs., LLC, 2012 Ark. 157, 400 S.W.3d 701 (2012).

Subchapter 5 — Residential Building Contractors Committee

SECTION.
17-25-501. Purpose.
17-25-502. Definitions.
17-25-503. Committee established — Members — Expenses — Administrative support.
17-25-504. Authority.
17-25-505. License from committee required.
17-25-506. Application for license.
17-25-507. Applicant qualifications.
17-25-508. Name of licensed contractor.
17-25-509. Written examination.
17-25-510. Hearings regarding violations.
17-25-511. Appeal from committee decision.
17-25-512. Expiration of license — Fees.
17-25-513. Exemptions.
17-25-514. Workers' compensation required.
17-25-515. Actions to enforce contracts in violation of this subchapter.

17-25-501. Purpose.

It is the intent of this subchapter to protect homeowners and the purchasers of homes constructed in this state by establishing reasonable and adequate licensing and regulation of homebuilders and home improvement contractors. It is intended that this subchapter apply to everyone not specifically excluded. It is also the intent of this subchapter that the Residential Contractors Committee be located with the Contractors Licensing Board and that the staff and appropriation for the board be utilized to implement this subchapter.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 1.

Amendments. The 2011 amendment inserted "homeowners" and "and home improvement contractors"; and substituted "Residential Contractors Committee" for "Residential Building Contractors Committee."

17-25-502. Definitions.

For purposes of this subchapter:

(1) "Committee" means the Residential Contractors Committee created by this subchapter;

(2) "Home improvement contractor" means any person, firm, partnership, co-partnership, association, corporation, or other organization or any combination that attempts to or submits a bid or contracts, undertakes, or assumes charge in a supervisory capacity or otherwise manages the reconstruction, alteration, renovation, repair, modification, improvement, removal, demolition, or addition to any preexisting single family residence or the property and structures appurtenant thereto;

(3) "Residential building contractor" means any person, firm, partnership, copartnership, association, corporation, or other organization or any combination, which for a fixed price, commission, fee, or wage, attempts to or submits a bid to construct or contract or undertakes to construct or assumes charge in a supervisory capacity or otherwise

manages the construction of a single family residence or the property and structures appurtenant thereto; and

(4) "Single family residence" means any project consisting of one (1) but not more than four (4) units of new construction for residential occupancy.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 2.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Building Contractors Committee" in (1); inserted present (2) and redesignated the remaining subdivisions accordingly; substituted "residence or the property and structures appurtenant thereto" for "residences" in (3); and, at the end of (4), deleted "when the cost of the project is twenty thousand dollars ($20,000) or more" and the last sentence.

17-25-503. Committee established — Members — Expenses — Administrative support.

(a)(1) There is created the Residential Contractors Committee, to consist of seven (7) members.

(2)(A)(i) The Governor shall appoint five (5) persons, each of whom has at least five (5) years' experience in residential construction.

(ii) Two (2) of the five (5) residential construction members shall be appointed from a list of at least ten (10) names submitted by the statewide trade organization or organizations that represent the residential construction industry.

(iii) Of the five (5) residential construction members, one (1) member shall be appointed from each of the four (4) congressional districts, and the remaining member shall be appointed from the state at large.

(B)(i) Two (2) members of the committee shall not be actively engaged in or retired from the profession of residential contracting.

(ii) One (1) shall represent consumers, and the other shall be at least sixty (60) years of age.

(iii) Both shall be appointed by the Governor from the state at large, subject to confirmation by the Senate.

(iv) These two (2) positions may not be held by the same person.

(v) Members appointed to these two (2) positions shall be full voting members but shall not participate in the grading of examinations.

(C) The members shall serve three-year terms. No member may serve more than three (3) three-year terms.

(3)(A) The committee shall elect a chair, vice chair, and secretary, each to serve in his or her respective capacity for one (1) year.

(B) Officers shall be elected by the committee annually.

(4) Three (3) voting members shall constitute a quorum.

(b) Committee members shall receive the same expense reimbursement and stipend as provided to the Contractors Licensing Board under the procedures prescribed by § 25-16-901 et seq. Expenses and stipends shall be paid by the board.

(c) The Governor shall make appointments to fill vacancies in the same manner as appointments were made under subsection (a) of this section. Persons appointed to fill vacancies shall serve the unexpired term of office and shall possess the same qualifications as if they were being appointed to a full term on the committee.

(d) The board shall provide staff and administrative support for the committee.

History. Acts 1999, No. 950, § 1; 2003, No. 203, § 1; 2005, No. 1962, § 73; 2007, No. 84, § 1; 2011, No. 1208, § 3.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Building Contractors Committee" in (a)(1).

17-25-504. Authority.

The Residential Contractors Committee may:

(1) Issue, modify, suspend, and revoke licenses issued by the committee;

(2) Establish qualifications for licenses issued by the committee;

(3) Enforce this subchapter and the committee's rules;

(4) Issue rules necessary for the implementation of this subchapter;

(5) Levy civil penalties under this subchapter;

(6) Issue orders of abatement in the same manner and to the same extent as authorized for the Contractors Licensing Board under § 17-25-103; and

(7) Seek any other civil remedies which are available to the board.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 4.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Building Contractors Committee" in the introductory language; substituted "licenses issued by the committee" for "residential building contractor's licenses" in (2) and (3); substituted "rules" for "regulations" in (3) and (4); substituted "under this subchapter" for "in the same amounts and under the same procedures as prescribed for the Contractors Licensing Board" in (5); and substituted "Contractors Licensing Board under § 17-25-103" for "board" in (6).

17-25-505. License from committee required.

(a) A person shall not act as a residential building contractor after July 1, 2001, unless licensed by the Residential Contractors Committee or exempted from licensure under this subchapter.

(b) A person shall not act as a home improvement contractor after January 1, 2012, unless:

(1) Licensed by the committee; or

(2) Exempt from licensure under this subchapter.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 5.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Building Contractors Committee" in present (a); and added (b).

17-25-506. Application for license.

(a) Applications for licensure shall be made on forms prescribed by the Residential Contractors Committee and shall have attached thereto:

(1)(A) Except as provided in subdivision (a)(1)(B) of this section, a compiled financial statement with each application for all persons and entities required by this subchapter to be licensed by the committee when the cost of the work done or to be done in the State of Arkansas by the contractor, including without limitation labor and materials, is twenty thousand dollars ($20,000) or more.

(B) A person or entity required to be licensed under this subchapter when the cost of the work done or to be done in the State of Arkansas by the contractor, including without limitation labor and materials, is less than twenty thousand dollars ($20,000) shall not be required to submit a financial statement; and

(2) Such other information as required by the committee.

(b)(1) The financial statement required with each application is not public information and may not be made available for inspection by any person, unless by an order of a court of competent jurisdiction.

(2) After the contractor is licensed, the Contractors Licensing Board shall destroy the financial statement by the process of shredding or returning the financial statement to the contractor.

History. Acts 1999, No. 950, § 1; 2003, No. 203, § 2; 2011, No. 1208, § 6.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Building Contractors Committee" in the introductory language of (a); rewrote present (a)(1)(A); and inserted (a)(1)(B).

17-25-507. Applicant qualifications.

(a) In determining the qualifications of any applicant for original license or any renewal license, the Residential Contractors Committee shall consider, among other things, the following:

(1) Experience;

(2) Ability;

(3) The manner of performance of previous contracts;

(4) Financial condition;

(5) Any other fact tending to show ability and willingness to conserve the public health and safety; and

(6) Default in complying with the provisions of this subchapter or any other law of the state.

(b) The committee may limit a license issued by the committee to the character of work for which the applicant is qualified to perform.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 7.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Building Contractors Committee" in the introductory language of (a); and added (b).

17-25-508. Name of licensed contractor.

Contractors licensed under this subchapter may act as such only in the name under which they are licensed by the Residential Contractors Committee.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 8.

Amendments. The 2011 amendment substituted "Contractors licensed under this subchapter" for "Residential building contractors" and "Residential Contractors Committee" for "Residential Building Contractors Committee."

17-25-509. Written examination.

(a) Except as otherwise provided in this section, a person shall not be licensed as a residential building contractor unless the person has passed a written examination prescribed by the Residential Contractors Committee.

(b)(1) Until January 1, 2012, the committee shall waive the written examination for a person who:

(A) Submits proof of having obtained five (5) building permits within the three (3) years preceding the date of application;

(B) Submits proof of having obtained one (1) building permit within the preceding twelve (12) months; or

(C) Submits proof of experience in construction acceptable to the committee.

(2) Subsection (b)(1) of this section does not apply to applicants for a residential builder license.

History. Acts 1999, No. 950, § 1; 2003, No. 1103, § 1; 2011, No. 1208, § 9.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Contractors Building Committee" in (a); rewrote (b); and deleted (c).

17-25-510. Hearings regarding violations.

(a) The Residential Contractors Committee may conduct hearings regarding alleged violations of this subchapter or regulations promulgated thereunder, and the hearings shall be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq. The committee shall within a reasonable time make findings and determinations as a result of the hearings.

(b) A contractor who, after notice and hearing, is found to have committed the following actions shall pay to the Contractors Licensing Board a civil penalty of not less than one hundred dollars ($100) nor more than four hundred dollars ($400) for each day that the violation occurred:

(1) Acting as a contractor without having a valid license in violation of this chapter;

(2) Using a contractor in violation of this chapter;

(3) Presenting or filing the license certificate of another;

(4) Giving false or forged evidence of any kind to the board in obtaining a certificate of license;

(5) Using an expired or revoked certificate of license;

(6) Giving false or fraudulent evidence of a contractor's license to another person or entity; or

(7) Committing other violations under this chapter.

(c) The committee may revoke the certificate of license of any contractor licensed under this subchapter who is found guilty of:

(1) Fraud or deceit in obtaining a license;

(2) Aiding or abetting a contractor or person to violate this chapter; or

(3) Gross negligence, incompetence, or misconduct in the contractor's business.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 10.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Contractors Building Committee" in (a); and added (b) and (c).

17-25-511. Appeal from committee decision.

Any person aggrieved by an action or decision of the Residential Contractors Committee may appeal to the Contractors Licensing Board within ten (10) calendar days after the action or decision under procedures prescribed by the board. Aggrieved parties shall be granted an opportunity to address the board regarding the committee's actions, and the final actions of the board shall be binding upon the committee.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 11.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Contractors Building Committee."

17-25-512. Expiration of license — Fees.

All licenses issued by the Contractors Licensing Board shall expire one (1) year after the date of issuance unless otherwise provided by the Residential Contractors Committee. The committee may charge reasonable examination fees and delinquency fees and may charge a fee not to exceed one hundred dollars ($100) for new licenses or renewal of a license. All fees and other moneys collected by the committee shall be disposed of as provided by § 17-25-205 and shall be used by the board to implement this subchapter.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 12.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Contractors Building Committee."

17-25-513. Exemptions.

The following shall be exempted from the licensing requirements of this subchapter:

(1) A person who acts as a residential building contractor in the construction of his or her residence unless he or she builds more than one (1) residence during any calendar year;

(2) The owner of a single family residence acting as his or her own home improvement contractor on his or her own property;

(3)(A) A person or entity acting as a residential building contractor or a home improvement contractor on any project, when the cost of the work done or to be done does not exceed two thousand dollars ($2,000).

(B) Subdivision (3)(A) of this section shall not apply to a project in which the construction work necessary to complete the project is divided into separate contracts of amounts less than two thousand dollars ($2,000);

(4) A subcontractor of a contractor licensed by the Residential Contractors Committee; and

(5) A person or entity licensed as a contractor by another licensing agency, board, or commission of the State of Arkansas if the contractor is performing work within the scope of the license held by the person or entity.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 13.

Amendments. The 2011 amendment substituted "Exemptions." for "Exemption for personal homebuilder." in the section heading and rewrote the section.

17-25-514. Workers' compensation required.

(a) A contractor required to be licensed by the Residential Contractors Committee as a residential building contractor shall secure the payment of workers' compensation under § 11-9-401 et seq.

(b) The committee shall require proof of current workers' compensation coverage before issuing or renewing a license as a residential building contractor.

(c) Unless otherwise required by law, a home improvement contractor required to be licensed under this subchapter shall not be required to secure the payment of workers' compensation under § 11-9-401 et seq. or provide proof of coverage to the committee before issuing or receiving a license if the cost of the work done or to be done in the State of Arkansas by the home improvement contractor, including without limitation labor and materials, is less than twenty thousand dollars ($20,000).

(d)(1) If a contractor fails to maintain workers' compensation coverage or fails to maintain proof of current workers' compensation coverage on file with the committee, the committee shall revoke the contractor's license.

(2) A contractor's license that has been revoked due to failure to maintain workers' compensation coverage may be reinstated upon receipt of proof that the contractor has secured workers' compensation coverage.

(e) The committee shall promulgate rules necessary to enforce this section.

History. Acts 2005, No. 1711, § 1; 2007, No. 398, § 1; 2011, No. 1208, § 14.

Amendments. The 2011 amendment, in (a), substituted "A contractor" for "A residential building contractor" and "Residential Contractors Committee" for "Residential Contractors Building Committee"; inserted "as a residential building contractor" in (a) and (b); inserted present (c) and redesignated the remaining subsections accordingly; and inserted "or fails to maintain proof of current workers' compensation coverage on file with the committee" in present (d)(1).

17-25-515. Actions to enforce contracts in violation of this subchapter.

A contractor found guilty of a violation of this subchapter shall not bring an action:

(1) In law or equity to enforce any provision of a contract entered into in violation of this subchapter; or

(2) For quantum meruit.

History. Acts 2011, No. 1208, § 15.

CHAPTER 26

COSMETOLOGY AND RELATED OCCUPATIONS

SUBCHAPTER.

1. General Provisions.
2. Cosmetology Technical Advisory Committee.
4. Cosmetological Schools and Establishments.

Subchapter 1 — General Provisions

SECTION.

17-26-102. Definitions.

17-26-104. Unlawful practices.

17-26-102. Definitions.

(a) As used in this chapter:

(1) "Aesthetician" means any person who engages in the practice of beautifying the body by cleaning, waxing, externally manipulating, or stimulating the body by means of the hands, devices, apparatus, or appliances with or without the use of cosmetic preparations, antiseptics, tonics, lotions, and creams;

(2) "Cosmetological establishment" means any premises, building, or part of a building in which is practiced any branch or any combination of branches of cosmetology or the occupation of a cosmetologist except:

(A) The branch of manicuring as practiced in barbershops licensed by the Cosmetology Technical Advisory Committee and complying with the provisions of this chapter; and

(B) Nursing facilities as defined under § 20-10-1401;

(3) "Cosmetologist" means any person who:

(A) Engages in the practice of cosmetology in a licensed cosmetological establishment, except the branch of electrolysis; or

(B) Services a client in premises not licensed as a cosmetological establishment when the services rendered involve a special event in which the cosmetology service is to be performed for an on-site participant of the event;

(4) "Electrologist" means any person who permanently removes hair from or destroys hair on the human body for beautification by the use of an electric needle or by the use of any other kinds of devices or appliances designed to permanently remove hair from the human body;

(5) "Manager-operator" means a licensed cosmetologist authorized to engage in the practice of cosmetology, independent of personal supervision in a duly licensed establishment;

(6) "Manicurist" means any person who engages in the occupation of manicuring the nails of any person by cutting, trimming, polishing, coloring, tinting, cleansing, filing, buffing, pushing, extending, protecting, wrapping, covering, building, or beautifying the nails or performing any other similar work upon the nails of any person by any means, including the softening of the arms, hands, feet, or ankles of any person by use of hands, mechanical or electrical apparatus or appliances, cosmetic or chemical preparations, antiseptics, lotions, or creams or by massaging, cleansing, manipulating, or stimulating the arms, hands, feet, or ankles of any person;

(7) "Postsecondary school of cosmetology" means a school of cosmetology that offers a postsecondary curriculum approved by the Department of Health;

(8) "School of cosmetology" means a person, firm, or corporation licensed by the State and exacting a fee for the teaching of any branch of cosmetology; and

(9) "Student" means any person enrolled and engaged in learning or acquiring a knowledge of the occupation of cosmetology or any branch of cosmetology in a licensed school of cosmetology under a licensed instructor.

(b) The art of cosmetology includes any and all and any combination of the following practices:

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, singeing, bleaching, tinting, coloring, straightening, dyeing, brushing, beautifying, or otherwise treating by any means the hair of any person or wigs or hairpieces;

(2) Externally manipulating, cleaning, waxing, or stimulating the body by means of the hands, devices, apparatus, or appliances with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

(3) Beautifying the body by use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

(4) Temporarily removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays;

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person; and

(6) Massaging, cleansing, or beautifying the nails of any person.

(c) The branch of electrolysis, a practice of cosmetology requiring a separate course of training as prescribed by § 17-26-306, includes permanently removing hair from or destroying hair on the human body by the use of an electric needle or by the use of any other kind of device or appliance designed to permanently remove hair from the human body.

History. Acts 1955, No. 358, Art. 2, § 2; 1955, No. 358, Art. 3, § 1; 1955, No. 358, Art. 4, § 1; 1955, No. 358, Art. 5, § 1; 1955, No. 358, Art. 7, § 1; 1955, No. 358, Art. 8, § 12; 1955, No. 358, Art. 12, § 1; 1965, No. 403, § 9; 1969, No. 400, §§ 1, 2; 1985, No. 215, § 4; A.S.A. 1947, §§ 71-827, 71-831, 71-833, 71-837, 71-848, 71-863, 71-875; Acts 1995, No. 771, § 1; 1997, No. 512, § 1; 2003, No. 680, § 2; 2007, No. 223, § 1; 2013, No. 1198, § 1.

Amendments. The 2013 amendment inserted present (a)(7) and (a)(8) and redesignated former (a)(7) as (a)(9); and deleted (d).

17-26-104. Unlawful practices.

(a)(1) It is unlawful for any person, firm, or corporation to violate this chapter or a rule adopted by the Cosmetology Technical Advisory Committee pursuant to this chapter.

(2) Evidence of a violation may result in a criminal or civil penalty.

(3) Each day of a violation is a separate offense.

(b)(1) Being found guilty of a criminal penalty is a Class D misdemeanor and is punishable by a fine in any sum not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) or by imprisonment in the county jail for a period of not more than ninety (90) days, or by both fine and imprisonment.

(2) After being found guilty of a Class D misdemeanor under this section, a subsequent charge under this section is a Class C misdemeanor.

(3) All prosecuting attorneys of the state and all political subdivisions of the state shall enforce this chapter and prosecute any person or entity violating it.

(c)(1) Being found in violation of a civil penalty under this section may result in suspension of license, revocation of license, fine, or any combination.

(2) For good cause shown and pursuant to rules of the committee, the committee may revoke, suspend, or refuse to renew at any time any license issued under this chapter on any of the grounds for disciplinary actions under § 17-26-105.

(3)(A) The committee shall suspend the license of any person licensed under this chapter who has been adjudged by a court of competent jurisdiction to be insane or legally incompetent.

(B) The record of the adjudication shall be prima facie evidence that the person is insane or legally incompetent within the meaning of subdivision (c)(3)(A) of this section.

(C) The committee shall not reinstate a license that has been suspended under subdivision (c)(3)(A) of this section, except upon proof that the licensee has been restored to a mental condition that would allow the licensee to comply with the requirements of this chapter.

(4)(A) Whenever the committee finds that a licensee or a holder of a permit issued by the committee is guilty of a violation of the rules of the committee or the laws of this state pertaining to any occupation, profession, or business licensed or regulated by the committee, the committee may impose a penalty on the licensee or permit holder in lieu of suspension or revocation of the license or permit.

(B) Upon imposition of a penalty in lieu of suspension or revocation of a license or permit, the committee may require that the licensee or permit holder pay a penalty to the committee for the violation with the condition that the license or permit may be suspended until the penalty is paid.

(C)(i) Prior to the imposition of a penalty, the committee shall hold an investigation and hearing after notice to the licensee or his or her attorney.

(ii) The penalty may be imposed in lieu of revocation or suspension of a license or permit only if the committee finds that the public health, safety, welfare, and morals would not be impaired and that the penalty achieves the desired disciplinary result.

(5)(A) The committee shall establish by rule the penalty system to be imposed under this section.

(B) The minimum penalty shall be twenty-five dollars ($25.00), and a maximum penalty of one thousand dollars ($1,000) is authorized if the penalty is imposed by the committee in lieu of revocation or suspension of a license or permit.

(C) The committee shall establish by rule an option that mandates a person to attend a health and safety training course in lieu of or in addition to paying a penalty.

(6) The power of the committee to impose penalties shall not be affected by any other civil or criminal proceeding concerning the violation.

(d) The committee may refuse to issue a license to any person upon reasonable evidence that the person would jeopardize the health and safety of the public.

(e) Any person penalized by the committee under this chapter may appeal any order of the committee in the manner provided by law.

(f) The committee may impose a civil penalty as provided in this section against any unlicensed person, firm, or corporation practicing or offering to practice any act that requires licensure under this chapter.

History. Acts 1955, No. 358, Art. 13; A.S.A. 1947, § 71-881; Acts 1993, No. 1056, § 7; 2007, No. 223, § 3; 2011, No. 859, § 2.

Amendments. The 2011 amendment substituted "an unclassified misdemeanor" for "a Class D misdemeanor" in (b)(1) and (b)(2).

Subchapter 2 — Cosmetology Technical Advisory Committee

SECTION.
17-26-205. Powers and duties.

17-26-205. Powers and duties.

(a) In addition to the other duties set forth in this chapter, the Department of Health shall:

(1) Prescribe the duties of the department's employees;

(2) Hold examinations as to the qualifications of all applicants for registration whose applications have been submitted to it in proper form, unless otherwise provided;

(3) Issue permits and licenses to the applicants who are entitled thereto;

(4) Register cosmetological establishments and schools of cosmetology;

(5) Implement the State Board of Health's rules:

(A) For carrying out the provisions of this chapter;

(B) For conducting examinations of applicants for licensing;

(C) For governing the recognition and the credits to be given to the study of cosmetology or any of its branches, under a cosmetologist or in a school of cosmetology, licensed under the laws of another state; and

(D) For governing health and safety, as it considers necessary, in regard to the precautions to be employed to prevent the creating or spreading of infections or contagious diseases in cosmetological establishments, in schools of cosmetology, and in the practice of a cosmetologist and in any branch of cosmetology, provided the rules meet the minimum requirements of the law. A copy of all rules governing health and safety shall be made available to each licensee. The rules adopted under this subsection shall have the force and effect of law.

(b) In addition to the powers conveyed upon the department by this chapter, the department may enforce the provisions of this chapter or any reasonable rule adopted by the board through injunctive process.

(c) The department may incur reasonable expenses and perform such other acts as may be necessary to carry out its duties and functions and to administer this chapter.

(d)(1) The department shall promulgate rules setting a standard educational curriculum for schools of cosmetology.

(2) The standard educational curriculum shall distinguish between secondary and postsecondary educational requirements for the schools of cosmetology.

History. Acts 1955, No. 358, Art. 1, §§ 7, 12; 1961, No. 490, §§ 1, 2, 11; A.S.A. 1947, §§ 71-820, 71-825, 71-882; Acts 2007, No. 223, § 7; 2009, No. 4, § 3; 2013, No. 1198, § 2.

Amendments. The 2013 amendment added (d).

Subchapter 4 — Cosmetological Schools and Establishments

SECTION.
17-26-403. School of cosmetology — Application to operate — License.

17-26-403. School of cosmetology — Application to operate — License.

(a) Schools of cosmetology shall be conducted as provided in this subchapter.

(b)(1) A person, firm, or corporation desiring to conduct a school of cosmetology shall apply to the Department of Health for approval.

(2) The Department of Education shall not be required to apply to the Department of Health for approval.

(3)(A) When an application is made after January 1, the portion of the registration fee that the unexpired number of months in the year bears to the entire year, including the month the application is made, shall be paid to the Department of Health.

(B) In such a case the Department of Health shall issue a license for the fractional part of the year.

(c) The license authorizes the school of cosmetology holding it to transact operations in this state during the year or fraction thereof for which it is issued subject to the rules of the Department of Health.

(d) Nothing in this section shall be construed as authorization or permission to conduct a school of cosmetology without a valid, existing, and unexpired license.

(e) A license issued by the Department of Health shall designate on the written license whether the school of cosmetology is licensed as:

(1) A school of cosmetology; or

(2) A postsecondary school of cosmetology.

History. Acts 1955, No. 358, Art. 8, §§ 1, 2; 1965, No. 403, § 12; 1973, No. 566, § 3; A.S.A. 1947, §§ 71-852, 71-853; Acts 2007, No. 223, § 34; 2009, No. 4, § 15; 2013, No. 1198, § 3.

Amendments. The 2013 amendment added (e).

CHAPTER 27
COUNSELORS

SUBCHAPTER.
1. General Provisions.
3. Licensing.
4. Licensing Alcoholism and Drug Abuse Counselors.

Subchapter 1 — General Provisions

SECTION.
17-27-101. Policy — Purpose.

17-27-101. Policy — Purpose.

(a) It is declared to be the policy of this state that activities of those persons who render service to the public in the counseling area and use the title "licensed professional counselor", "licensed associate counselor", "licensed marriage and family therapist", or "licensed associate marriage and family therapist" should be regulated for the protection of public health, safety, and welfare.

(b) It is the purpose and intent of this chapter to:

(1) Provide for the regulation of the practice of counseling in the State of Arkansas;

(2) Create a board of examiners in counseling and prescribe the duties and powers of the board;

(3) Provide for the examination and licensure of counselors;

(4) Fix penalties for the violation of this chapter;

(5) Impose reasonable fees for applications, licenses, examinations, and other administrative purposes that the board deems necessary and provide for the use of funds derived from the fees; and

(6) Provide for the regulation of the use of the titles "licensed professional counselor", "licensed associate counselor", "licensed marriage and family therapist", and "licensed associate marriage and family therapist" for those who offer counseling services to the public.

History. Acts 1979, No. 593, § 1; A.S.A. 1947, § 71-5201; Acts 1997, No. 244, § 1; 2013, No. 959, § 1.

Amendments. The 2013 amendment rewrote (b)(5).

Subchapter 3 — Licensing

SECTION.

17-27-313. Criminal background checks.

17-27-308. Reciprocity.

CASE NOTES

Substantial Evidence.

There was substantial evidence to support the finding that the prior felony conviction should not be waived to allow the applicant to offer counseling, because the Arkansas Board of Examiners in Counseling found that the applicant's testimony that there would be no future aberrations in his behavior was not credible. Counseling, 2013 Ark. App. 222, — S.W.3d — (2013).

17-27-313. Criminal background checks.

(a) The Arkansas Board of Examiners in Counseling may require each applicant for license renewal and each first-time applicant for a license issued by the board to apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check, to be conducted by the Identification Bureau of the

Department of Arkansas State Police and the Federal Bureau of Investigation.

(b) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the board and shall be responsible for the payment of any fee associated with the criminal background check.

(d) Upon completion of the criminal background check, the Identification Bureau of the Department of Arkansas State Police shall forward to the board all releasable information obtained concerning the applicant.

(e) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to or been found guilty of any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:

(1) Capital murder as prohibited in § 5-10-101;

(2) Murder in the first degree and second degree as prohibited in §§ 5-10-102 and 5-10-103;

(3) Manslaughter as prohibited in § 5-10-104;

(4) Negligent homicide as prohibited in § 5-10-105;

(5) Kidnapping as prohibited in § 5-11-102;

(6) False imprisonment in the first degree as prohibited in § 5-11-103;

(7) Permanent detention or restraint as prohibited in § 5-11-106;

(8) Robbery as prohibited in § 5-12-102;

(9) Aggravated robbery as prohibited in § 5-12-103;

(10) Battery in the first degree as prohibited in § 5-13-201;

(11) Aggravated assault as prohibited in § 5-13-204;

(12) Introduction of controlled substance into body of another person as prohibited in § 5-13-210;

(13) Terroristic threatening in the first degree as prohibited in § 5-13-301;

(14) Rape as prohibited in § 5-14-103;

(15) Sexual indecency with a child as prohibited in § 5-14-110;

(16) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;

(17) Incest as prohibited in § 5-26-202;

(18) Offenses against the family as prohibited in §§ 5-26-303 — 5-26-306;

(19) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;

(20) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;

(21) Permitting abuse of a minor as prohibited in § 5-27-221;

(22) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print medium depicting sexually

explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;

(23) Felony adult abuse as prohibited in § 5-28-103;

(24) Theft of property as prohibited in § 5-36-103;

(25) Theft by receiving as prohibited in § 5-36-106;

(26) Arson as prohibited in § 5-38-301;

(27) Burglary as prohibited in § 5-39-201;

(28) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-510, as prohibited in the former § 5-64-401 and §§ 5-64-419 — 5-64-442;

(29) Promotion of prostitution in the first degree as prohibited in § 5-70-104;

(30) Stalking as prohibited in § 5-71-229;

(31) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;

(32) Computer child pornography as prohibited in § 5-27-603; and

(33) Computer exploitation of a child in the first degree as prohibited in § 5-27-605.

(f)(1) The board may issue a six-month nonrenewable letter of provisional eligibility for licensure to a first-time applicant pending the results of the criminal background check.

(2) Upon receipt of information from the Identification Bureau of the Department of Arkansas State Police that the person holding such a letter of provisional licensure has pleaded guilty or nolo contendere to or been found guilty of any offense listed in subsection (e) of this section, the board shall immediately revoke the provisional license.

(g)(1) The provisions of subsections (e) and (f) of this section may be waived by the board upon the request of:

(A) An affected applicant for licensure; or

(B) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat to the health or safety of children.

(h)(1) Any information received by the board from the Identification Bureau of the Department of Arkansas State Police pursuant to this section shall not be available for examination except by:

(A) The affected applicant for licensure, or his or her authorized representative; or

(B) The person whose license is subject to revocation, or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.

(i) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(j) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(k) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section.

History. Acts 1997, No. 1317, § 5; 2003, No. 1087, § 14; 2003, No. 1388, § 1; 2005, No. 2277, § 1; 2011, No. 570, § 120.

A.C.R.C. Notes. Acts 2011, No. 570, § 1, provided: "Legislative intent. The intent of this act is to implement comprehensive measures designed to reduce recidivism, hold offenders accountable, and contain correction costs."

Amendments. The 2011 amendment, in (e)(28), substituted "5-64-510" for "5-64-608" and inserted "the former" and "and §§ 5-64-419 — 5-64-442."

CASE NOTES

Waiver Denied.

There was substantial evidence to support the finding that the prior felony conviction should not be waived to allow the applicant to offer counseling, because the Arkansas Board of Examiners in Counseling found that the applicant's testimony that there would be no future aberrations in his behavior was not credible. Counseling, 2013 Ark. App. 222, — S.W.3d — (2013).

Subchapter 4 — Licensing Alcoholism and Drug Abuse Counselors

SECTION.
17-27-406. Powers and duties of board.
17-27-408. Licensed alcoholism and drug abuse counselor — License requirements.
17-27-409. Licensed associate alcoholism and drug abuse counselor — License requirements.
17-27-410. Certified alcoholism and drug abuse technician — Certification requirements.
17-27-414. Grievance procedure — Denial, revocation, or suspension of license or certificate — Appeals.

Effective Dates. Acts 2013, No. 1249, § 7: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that under § 25-15-105, the authority of the State Board of Examiners of Alcoholism and Drug Abuse Counselors to charge certain fees currently collected by the board will expire on July 1, 2013, and that this act is necessary to allow the board to continue to collect the revenues it currently receives and to allow the board to maintain its current level of operation. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

17-27-406. Powers and duties of board.

(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall administer and enforce the provisions of this subchapter and shall adopt rules and regulations consistent with its provisions, including a code of ethical practice.

(b) The board shall review and act upon applications for licensure and certification at least four (4) times a year and shall regulate the renewal of licenses or certifications.

(c) The board may conduct hearings on charges calling for the denial, revocation, or suspension of a license or certification or issuance of a monetary fine, shall adopt rules for the conduct of the hearings, and shall cause the prosecution of all persons who violate any provisions of this subchapter or any rule promulgated pursuant to its provisions.

(d) The board may sue and be sued in its own name.

(e) The board may employ any persons it deems necessary to carry on the work of the board and shall define their duties and fix their compensation within the limits prescribed by law.

(f) The board shall maintain a register of all individuals licensed or certified under the provisions of this subchapter. The register shall be a public record.

(g) The board shall keep a complete record of all of its proceedings.

(h)(1) The board shall set by rule a fee schedule for:

(A) Applications for licensure;

(B) Examinations;

(C) Renewal of licensure;

(D) Late fees;

(E) Fines; and

(F) Administrative costs.

(2) The fees shall be set at a level sufficient to cover the cost of supporting the duties of the board, hiring persons necessary to carry on the work of the board, and other functions necessary for the successful operation of the board.

History. Acts 1999, No. 1588, § 6; 2013, No. 1249, §§ 1, 2.

Amendments. The 2013 amendment, in (c), inserted "or issuance of a monetary fine" and deleted "or regulation" before "promulgated pursuant"; and rewrote (h).

17-27-408. Licensed alcoholism and drug abuse counselor — License requirements.

(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall issue the license as a licensed alcoholism and drug abuse counselor to an applicant who meets the following requirements:

(1) Is at least twenty-one (21) years of age;

(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.

(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;

(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.

(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;

(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;

(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for licensure that all education and experience requirements have been met;

(6) Has submitted three (3) letters of reference;

(7) Has paid to the board an examination fee fixed by the board;

(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;

(9) Has signed a written agreement to abide by the code of ethics adopted by the board; and

(10) Holds a master's degree in the health or behavioral sciences field or other appropriate field from an accredited college or university.

(b) The license shall be displayed in the licensee's principal place of practice and shall entitle the licensee to hold himself or herself forth to the public as providing services as authorized by this subchapter.

History. Acts 1999, No. 1588, § 8; 2009, No. 443, § 2; 2013, No. 1249, § 3.

Amendments. The 2013 amendment added "and paid an application fee fixed by the board" at the end of (a)(4).

17-27-409. Licensed associate alcoholism and drug abuse counselor — License requirements.

(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall issue a license as a licensed associate alcoholism and drug abuse counselor to an applicant who meets the following requirements:

(1) Is at least twenty-one (21) years of age;

(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.

(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;

(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.

(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;

(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;

(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for licensure that all education and experience requirements have been met;

(6) Has submitted three (3) letters of reference;

(7) Has paid to the board an examination fee fixed by the board;

(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;

(9) Has signed a written agreement to abide by the code of ethics adopted by the board;

(10) Holds a baccalaureate degree in the health or behavioral sciences field or other appropriate field from an accredited college or university; and

(11)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised direct counseling experience in the alcoholism or drug abuse counseling field, either paid or voluntary.

(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board.

(b) The certification shall be displayed in the associate's principal place of practice and shall entitle the individual to hold himself or herself forth to the public as providing services as authorized by this subchapter.

(c) Associates licensed by the board may engage in the practice of alcoholism and drug abuse counseling after successfully completing a schedule of supervision prescribed by the board and performed under the direct supervision of a registered clinical supervisor in good standing with the board.

History. Acts 1999, No. 1588, § 9; 2009, No. 443, § 2; 2013, No. 1249, § 4.

Amendments. The 2013 amendment added "and paid an application fee fixed by the board" at the end of (a)(4).

17-27-410. Certified alcoholism and drug abuse technician — Certification requirements.

(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall issue the certification as a certified alcoholism and drug abuse technician to an applicant who meets the following requirements:

(1) Is at least twenty-one (21) years of age;

(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.

(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;

(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.

(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;

(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;

(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for licensure that all education and experience requirements have been met;

(6) Has submitted three (3) letters of reference;

(7) Has paid to the board an examination fee fixed by the board;

(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;

(9) Has signed a written agreement to abide by the code of ethics adopted by the board; and

(10) Holds a high school diploma or equivalent.

(b) The certification shall be displayed in the technician's principal place of practice and shall entitle the individual to hold himself or herself forth to the public as providing services as authorized by this subchapter.

(c) Technicians certified by the board may engage in the practice of alcoholism and drug abuse counseling only while under the direct supervision of a licensed alcoholism and drug abuse counselor who is registered as a registered clinical supervisor by the board.

(d) A technician shall not receive a license as a licensed alcoholism and drug abuse counselor or a license as an associate alcoholism and drug abuse counselor unless the provisions of §§ 17-27-408 and 17-27-409 have been met.

History. Acts 1999, No. 1588, § 10; 2009, No. 443, § 2; 2013, No. 1249, § 5.

Amendments. The 2013 amendment added "and paid an application fee fixed by the board" at the end of (a)(4).

17-27-414. Grievance procedure — Denial, revocation, or suspension of license or certificate — Appeals.

(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors may hear the grievances of any person whose application for a license, registration, or certificate has been denied.

(b)(1) The board may deny, revoke, or suspend any license, registration, or certificate upon proof that the person has willfully or repeatedly violated any of the provisions of this subchapter or any rule promulgated by the board or upon proof that a person has practiced outside the scope of practice for which he or she is licensed or certified under this subchapter.

(2) The board may assess a monetary fine to a person licensed or certified under this subchapter in addition to or in lieu of the denial, revocation, or suspension of a license, registration, or certificate under subdivision (b)(1) of this section.

(c) The board shall not suspend, revoke, or refuse to renew a license or certificate or assess a monetary fine, except after a hearing held before the board, upon notice to the person charged.

(d) The notice shall:

(1) Be in writing;

(2) State the nature of the charges and the time and place of the hearing; and

(3) Be served on the person charged by certified mail not less than thirty (30) days before the date of the hearing.

(e) The person charged:

(1) May appear in person or by counsel;

(2) May testify;

(3) May produce evidence and witnesses on his or her own behalf;

(4) May cross-examine witnesses; and

(5) Is entitled on application to the board to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(f)(1) The board or its authorized representative on his or her behalf shall have the authority to issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths.

(2) The board may invoke the aid of the circuit court for the county in which the hearing is held to enforce compliance with its subpoenas.

(g) A stenographic or mechanical record of the hearing shall be taken, and a transcript shall be preserved by the board.

(h) At all hearings before the board, the Attorney General of the State of Arkansas or one (1) of his or her assistants designated by him or her shall appear and represent the board.

(i) The decision of the board shall be by a majority vote of the board.

(j) A copy of the board's order shall be sent by certified mail to the last known address of the person charged.

(k) The board may grant a rehearing when new and material evidence is offered for its consideration.

(l)(1) Any person aggrieved by a final order of the board, within thirty (30) days of the entry of the order, may appeal to the circuit court of the county in which he or she resides.

(2) The appeal shall be determined by the court upon the certified record, and new or additional evidence shall not be heard or considered by the court.

History. Acts 1999, No. 1588, § 14; 2009, No. 443, § 4; 2013, No. 1249, § 6.

Amendments. The 2013 amendment added the (b)(1) designation and added (b)(2); deleted "or regulation" following "rule" in (b)(1); and inserted "or assess a monetary fine" in (c).

CHAPTER 28

ELECTRICIANS

SUBCHAPTER.

2. Board of Electrical Examiners of the State of Arkansas.

3. Licensing.

Subchapter 2 — Board of Electrical Examiners of the State of Arkansas

SECTION.
17-28-201. Creation — Members.
17-28-202. Duties of Board of Electrical Examiners of the State of Arkansas and Department of Labor.

17-28-201. Creation — Members.

(a) There is created a Board of Electrical Examiners of the State of Arkansas.

(b) The board shall consist of the Director of the Department of Labor or his or her authorized representative and eight (8) other members who shall be residents of this state appointed by the Governor with the advice and consent of the Senate:

(1) One (1) member shall be the chief electrical inspector of a municipality within the state;

(2) One (1) member shall be a licensed professional engineer as defined in § 17-30-101 engaged primarily in the design or maintenance of electrical installations;

(3) One (1) member shall be an electrical contractor operating in this state;

(4) One (1) member shall be a master or supervising electrician;

(5) One (1) member shall be a representative of a public electric utility operating in this state;

(6) One (1) member shall be a representative of a private electric utility operating in this state;

(7) One (1) member shall represent the public and shall not be affiliated with any of the other groups represented on the board; and

(8) One (1) member shall represent the elderly, shall be sixty (60) years of age or older, and not actively engaged as or retired as an electrician. This member shall be appointed from the state at large, subject to confirmation by the Senate, and shall be a full voting member but shall not participate in the grading of examinations.

(c) The same person may not be both the public representative and the representative of the elderly.

(d) Each appointment shall be for a term of four (4) years or until a successor is appointed.

(e) In the event of a vacancy during a term, the Governor may appoint a replacement to fulfill the unexpired portion of the term.

(f) The board shall elect one (1) of its members to act as its chair for a term of one (1) year, and he or she shall have a vote on all matters before the board.

(g) For cause and after a hearing, any appointed member may be removed from office by the Governor.

(h) Each appointed member may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1979, No. 870, § 2; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; A.S.A. 1947, §§ 6-623 — 6-626, 71-5302; Acts 1997, No. 250, § 135; 2011, No. 897, § 13.

Amendments. The 2011 amendment inserted "as defined in § 17-30-101" in (b)(2).

17-28-202. Duties of Board of Electrical Examiners of the State of Arkansas and Department of Labor.

(a) It shall be the duty of the Board of Electrical Examiners of the State of Arkansas to:

(1) Adopt rules necessary for the implementation of this chapter and § 17-55-101 et seq.;

(2) At least every six (6) months, conduct examinations of persons who apply for an electrician's license and grant licenses to qualifying applicants who have paid the prescribed fee;

(3) Grant licenses to qualifying applicants for an electrical inspector's license under § 17-55-101 et seq.; and

(4) Revoke or suspend the license of any licensee or the certification of any electrical apprentice for cause.

(b)(1) It shall be the duty of the Department of Labor to administer and enforce the provisions of this chapter.

(2) For the enforcement of this chapter, the Director of the Department of Labor or his or her designated employees shall have the authority to enter, during normal business hours, upon any private or public premises with right of access, ingress, and egress for the purpose of ascertaining whether a person has performed electrical work or installed or repaired electrical facilities in accordance with this chapter, the Arkansas Electrical Code Authority Act, § 20-31-101 et seq., and the regulations and standards adopted pursuant thereto.

History. Acts 1979, No. 870, § 3; 1981, No. 701, § 1; 1983, No. 866, § 2; A.S.A. 1947, § 71-5303; Acts 1997, No. 1289, § 4; 2013, No. 756, § 1.

Amendments. The 2013 amendment, in (a)(1), deleted "and regulations" following "rules" and added "and § 17-55-101 et seq."; deleted "and" from the end of (a)(2); inserted (a)(3) and redesignated former (a)(3) as (a)(4); and deleted "the provisions of" preceding "this chapter" in (b)(2).

Subchapter 3 — Licensing

SECTION.
17-28-301. Electrician's license — Issuance and renewal — Fees.
17-28-305. Local regulatory authority — Exceptions.

17-28-301. Electrician's license — Issuance and renewal — Fees.

(a) Individuals passing the master, journeyman, residential master, residential journeyman, air conditioning electrician, specialist sign electrician, or industrial maintenance electrician's examination as specified in § 17-28-203 shall be issued a license of the same class as that of the examination upon payment of the following fees:

(1) Master electrician $50.00

(2) Journeyman electrician 25.00
(3) Industrial maintenance electrician 25.00
(4) Residential master electrician 50.00
(5) Residential journeyman electrician 25.00
(6) Air conditioning electrician 25.00
(7) Specialist sign electrician 25.00.

(b)(1) Licenses shall expire on the date indicated on the licenses. Licenses shall expire on the last day of the month, one (1) year following the date of the original license.

(2) The license may be renewed for a period of one (1), two (2), or three (3) years with the fee to be as follows:

(A) Master electrician $50.00 per year
(B) Journeyman electrician 25.00 per year
(C) Industrial maintenance electrician 25.00 per year
(D) Residential master electrician 50.00 per year
(E) Residential journeyman electrician 25.00 per year
(F) Air conditioning electrician 25.00 per year
(G) Specialist sign electrician 25.00 per year.

(3) Any licensee may renew his or her license within six (6) months following the expiration date on the license by paying the renewal fee as indicated in subdivision (b)(2) of this section.

(4) If a licensee shall fail to renew his or her license within six (6) months after the expiration date on the license, the licensee may renew his or her license by paying a penalty of ten dollars ($10.00) for a journeyman or residential journeyman electrician, ten dollars ($10.00) for an industrial maintenance electrician or air conditioning electrician, and twenty dollars ($20.00) for a master electrician or a residential master electrician, in addition to the regular renewal fees.

(5) If the license is not renewed within one (1) year after the expiration date on the license, the licensee shall be required to take another examination as administered by the Board of Electrical Examiners of the State of Arkansas.

(6) If a person simultaneously holds an electrical inspector license and a license as a master electrician or a journeyman electrician, the person, when renewing his or her master electrician or journeyman electrician license, shall be exempt from the:

(A) Renewal fee under this section; and

(B) Continuing education requirements for master electricians and journeyman electricians under § 17-28-311.

(c) The registration fee for an electrical apprentice shall be ten dollars ($10.00) annually. Apprentice registration certificates shall expire on the last day of the month, one (1) year following the date of original registration.

(d) The board is authorized to issue a temporary license as a master electrician or journeyman electrician that is valid for no more than six (6) months and renewable one (1) time only for industry projects as defined in this chapter, upon submission by the applicant of the following:

(1) A temporary license fee in the amount established by subsection (a) of this section;

(2) A completed application on a form furnished and approved by the board; and

(3) Evidence that the applicant:

(A) Holds a current license of the same classification issued by another state; or

(B) Meets the experience qualifications required under rules promulgated by the board for a temporary master electrician or a temporary journeyman electrician.

(e) Notwithstanding any restrictions in subsection (d) of this section, the board may issue and renew a temporary license as a master electrician or journeyman electrician for regularly scheduled or emergency maintenance work or shut-downs of not longer than six (6) weeks on industry projects as defined in this chapter.

History. Acts 1979, No. 870, §§ 5, 6; 1983, No. 866, § 4; 1985, No. 355, § 1; A.S.A. 1947, §§ 71-5305, 71-5306; Acts 1993, No. 831, § 2; 1997, No. 1289, § 7; 1999, No. 894, § 2; 2007, No. 495, §§ 1, 2; 2009, No. 312, § 1; 2009, No. 1188, § 3; 2013, No. 756, § 2.

Amendments. The 2013 amendment added (b)(6).

17-28-305. Local regulatory authority — Exceptions.

(a) Any individual licensed or registered under this chapter shall not be subject to examination or licensing by any city or county in order to perform electrical work.

(b) Any city or town may by ordinance, rules, regulations, or contract prescribe rules, regulations, and standards for the materials used in the construction, installation, and inspection of all electrical work in the city or county, provided the rules, regulations, or standards are not in conflict with the standards prescribed by the Board of Electrical Examiners of the State of Arkansas under the authority of § 17-28-202, § 17-55-101 et seq., and § 20-31-104. However, a city or county may by ordinance require a person, before doing electrical work on his or her primary residence, to demonstrate a technical competency to comply with the city or county standards. If the city has adopted an ordinance to exercise its territorial planning jurisdiction and if the city and county agree to authorize such, a city may exercise jurisdiction over the construction, installation, and inspection of electrical work within the city's territorial jurisdiction for planning authorized under § 14-56-413.

(c) Any city or county may establish by ordinance, rules, and regulations a system of permits and inspections for the installation, repair, and maintenance of electrical facilities and electrical work.

(d) An electrical inspector shall be licensed by the Board of Electrical Examiners of the State of Arkansas under § 17-55-101 et seq.

History. Acts 1979, No. 870, § 8; A.S.A. 1947, § 71-5308; Acts 1997, No. 1289, § 9; 2013, No. 756, § 3.

Amendments. The 2013 amendment deleted "Electrical inspectors" from the end of the section heading; substituted "under the authority of § 17-28-202, § 17-55-101 et seq., and § 20-31-104" for "pursuant to the authority of §§ 17-22-202 and 20-31-104" in (b); and added (d).